



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

SELECT COMMITTEE ON IMMIGRATION

**BING ER-LHEH TINVAAL MYCHIONE
ARRAGHEY STIAGH 'SYN ELLAN**

Douglas, Thursday, 25th October 2007

Members Present:

Chairman: The Speaker of the House of Keys (Hon. S C Rodan)
 Mrs C M Christian, MLC
 Mr Q B Gill, MHK
 Mr R W Henderson, MHK

Clerk:
 Mr L Crellin

Apologies: Mr J Watterson MHK

Business transacted

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The Committee sat in private at 12.43 p.m.

Tynwald Select Committee on Immigration

*The Committee sat in public at 10.35 a.m.
in the Millennium Conference Room,
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

Procedural

The Chairman (The Speaker of the House of Keys, the Hon. S C Rodan): Good morning, ladies and gentlemen and I welcome you to the first public sitting of this Select Committee of Tynwald on Immigration.

The Committee was established by Tynwald in January of this year. The remit of the Committee is:

‘To examine and review the operation and adequacy of the existing legislation available to the Isle of Man for monitoring and controlling immigration to the Island.’

I would like to introduce my colleagues on the Committee: I am Steve Rodan, the Chairman; on my far right is the Clerk to the Committee, Mr Les Crellin; on my immediate right, Mr Bill Henderson MHK; Mrs Clare Christian MLC; Mr Quintin Gill MHK; and Mr Clive Alford is our Hansard Editor, responsible for recording and taking a record of today’s proceedings. So everything that is said today is going to be recorded and published, and will be available shortly to the public.

At this point, can I ask everyone who has a mobile phone to please switch them off, because that way it will avoid any interference to the recording equipment.

EVIDENCE OF MR M KELLY, MRS T THOMAS AND MR S ARROWSMITH

The Chairman: This morning, I would like to welcome representatives of the Department of Trade and Industry.

A mobile phone rings.

The Chairman: Thank you.

If I could just ask, Mr Kelly, if you could introduce yourself and your colleagues to us for the record.

Mr Kelly: Thank you, Chairman.

First of all, I should point out that I am here in place of Mrs McKenzie, who is unwell, unfortunately.

The Chairman: Mrs McKenzie being the...

Mr Kelly: The Employment Services Manager.

The Chairman: Yes.

Mr Kelly: My role in the Department of Trade and Industry is Deputy Chief Executive.

On my right hand, I have Tina Thomas, who is the Work Permit Office Manager, and on my left I have Sean Arrowsmith, who is a Work Permit Inspector.

The Chairman: Thank you very much indeed.

If I could just begin with, perhaps, a general question, Mr Kelly... Of course, as we go along, if you feel any questions you wish to field to your colleagues, please do so, but if we could start by asking, could you explain, for the record, the difference between permits that apply to European Union and UK residents coming to the Isle of Man, and to non-European residents. We understand there are two different systems. Could you just tell us what they are and the differences between them.

Mr Kelly: Certainly, Mr Chairman.

Work permits are issued in two ways. The vast majority of permits are issued under the Control of Employment Act, and that is Manx primary legislation and relates to about 9,000 permits per annum.

A small number of permits each year – around about 200 – are issued under the Overseas Labour Scheme (OLS). This is UK legislation for which the Lieutenant-Governor is responsible. He delegates his authority to an officer of the DTI – that is Mrs Thomas – to make decisions.

So the distinction is: Manx primary legislation – the Control of Employment Act – which is the vast majority of work permits; and the Overseas Labour Scheme, which is non-EU-EEA nationals.

The Chairman: Thank you for that.

Can you tell us how each system is administered by the DTI?

Mr Kelly: I wonder if I could ask Mrs Thomas to comment on that?

The Chairman: Certainly.

Mrs Thomas: Yes, certainly.

The Control of Employment Act Work Permits Scheme is a Scheme which the DTI Minister, Mr Cretney, has overall responsibility for. He delegates his authority to the Work Permit Committee to make decisions on contentious applications and they delegate authority to me to approve work permits that are non-contentious. They set guidelines that I have to follow in granting work permits.

The Overseas Labour Scheme has nothing to do with the Work Permit Committee. That is a Scheme administered under the Immigration Act and the Lieutenant-Governor has overall responsibility for that Scheme. I am directed by him to make decisions on those work permits under a Scheme that is operated in the UK. There is an appeal of any decision that I make on a work permit and that is brought to the attention of a senior member of staff.

The Chairman: So just to be clear, the Work Permits Committee does not administer the Overseas Labour Scheme permits.

Mrs Thomas: No.

Procedural

Mr Kelly: Correct.

Mrs Thomas: Yes.

The Chairman: You, as an officer, do so under delegated authority of the Lieutenant-Governor.

Mrs Thomas: Yes.

The Chairman: Just going back to the Work Permits Committee, can you just tell us how that is appointed and how often they meet? I think you said they only deal with the contentious applications, so how often do they meet?

Mrs Thomas: They meet twice a month – every second and fourth Tuesday of the month – and applications are brought to their attention when we are unable to establish availability of Isle of Man workers, that an Isle of Man worker is not able to undertake the role, and various criteria that I have to follow when considering an application. Those applications are then brought before the Work Permit Committee for their consideration.

Mr Kelly: Excuse me, Tina. I wonder would it be helpful, Chairman, to point out that the Work Permit Committee does not exist under primary legislation; it exists under delegated authority from the Minister for Trade and Industry, under the Government Departments Act 1987.

The Chairman: Thank you for making that clear.

How many applications would be referred to the Work Permit Committee? You said there are about 9,000 applications a year made.

Mrs Thomas: I would say overall about 5 per cent.

The Chairman: How many?

Mrs Thomas: About 5 per cent.

The Chairman: About 5 per cent of the total would go to the Work Permit Committee, and the rest would be dealt with by yourself?

Mrs Thomas: Yes.

The Chairman: Okay. Can you tell us then, in an average week, how many applications would you deal with?

Mrs Thomas: I can tell you monthly, on average, we deal with about 600 applications.

The Chairman: Could you take us through the criteria that you apply when you consider an application under delegated authority. We do understand that there are Control of Employment Act regulations which you adhere to, but could you just take us through –

Mrs Thomas: Yes, certainly.

The Chairman: – how you consider an application.

Mrs Thomas: The first thing we would look at is how many Isle of Man workers have applied for a position and

reasons why they are not suitable. We would look at the job advertisement, the CVs of the Isle of Man workers and the CVs of the applicant that they wish to appoint to the post. We would compare that to the advert, the job specification, and the comments that are written by the employer as to the unsuccessful Isle of Man worker applicants. If we consider that there is an available Isle of Man worker, in our opinion, that could undertake that role, we would take that to the Work Permit Committee for their consideration, based on their comments.

If we have had an objection from an Isle of Man worker to the granting of the work permit, that application would automatically go before the Work Permit Committee. If somebody has committed a criminal offence on their application form and has declared it, that would be a matter for our inspectorate to deal with. We would just pass those to our inspectorate for their investigation.

Minimum wage applications: we would not process an application where the minimum wage is not being paid.

The Chairman: That is very helpful.

As far as renewal of work permits is concerned, how does the process differ, if at all?

Mrs Thomas: A renewal application: if there are immigration questions, we would seek immigration advice, or we would just look at whether there has been a downturn in that particular market and take advice from the Work Permit Committee, or we would just renew the work permit.

The Chairman: You made reference to checking press advertisements for the job. In every case, do you expect there to have been evidence of press advertising to establish whether there is any local Isle of Man interest in the job?

Mrs Thomas: Non-management positions, we would accept if they had been advertised in the Job Centre – all their jobs go on their internet, which makes it available to the whole of the Isle of Man. Management positions we would expect to be advertised both in the newspaper or with an employment agency.

The Chairman: Right, thank you.

I will just invite my colleagues, if they wish to put any questions at this stage on the subject of the work permit system.

Mr Gill.

Mr Gill: Thank you, Chairman.

Mrs Thomas, when you said about declared criminal offences, what would the situation be if people omitted to declare any offence on their application form?

Mrs Thomas: We would just pass that application to our inspectorate.

Mr Gill: You would take it on face value.

Mrs Thomas: That would be for our inspectorate to investigate. My colleague, Sean, would be able to explain that more to you.

Mr Arrowsmith: If somebody declares a criminal conviction, we would, as a matter of course – if it is above

a driving offence, if it was no more than three points – then we would interview them. The reason for that is to basically find out what the person is like, and also it gives us a chance to find out if they may want to tell us something more.

Failure to declare a criminal conviction that is unspent is an offence under the Act, so if somebody submits an application and signs that they have no criminal convictions and it later comes to light that they do have, then we will take action to take –

Mr Gill: Do you make periodic checks of criminal records?

Mr Arrowsmith: We have to have a reasonable suspicion that somebody has not told us the full story. We are in discussions with the Police Records department at the moment. We have had a meeting this week on the way we can go forward and make it more workable, but we do get, from time to time, anonymous calls or letters saying that somebody has such-and-such a conviction and we check the file. If it is not on there, then we have the right to get the file from the Police.

Mr Gill: How many prosecutions have there been for non-disclosure of offences?

Mr Arrowsmith: The last prosecution for non-disclosure of offences was 2001. I left the Department then; I am not aware of any others. Prior to that, there were... I do not remember the exact number, but we were in court on a very regular basis – maybe once a month. We were getting criminal records more regularly at that time.

Mr Gill: Thank you. Chairman, could I just finally ask...

The Chairman: Yes.

Mr Gill: Internet advertising, with the internet being global, would that count as it being globally accessible, if a job vacancy is advertised on the internet?

Mr Kelly: Do you know?

Mrs Thomas: Are you talking about the Job Centre?

Mr Gill: Would the Department, the OLS –

Mr Kelly: Would the Committee feel that was acceptable – is that what you are saying?

Mr Gill: Yes.

Mr Kelly: Or would they look for more than that?

Mrs Thomas: They like to see that a position has been advertised on the Isle of Man, and that would include the Job Centre, or an Isle of Man based agency, or the local newspapers.

Mr Kelly: They are looking to see if the employer has made a reasonable effort to advertise a position.

The Chairman: Just to follow up on that point, on the

advertising, does the Work Permit Committee require the applicant, the employer, to give evidence of how many local people have responded to that advertisement? It is one thing to have placed it, but does the Committee test how many responses there have been and, if there have been, then test the applicant as to why none of those responders have been deemed suitable for the job?

Mrs Thomas: Yes. If the Committee are unhappy with the paperwork that they have before them, they will invite employers to meet with the Committee to substantiate and back up their case for non-suitability of the Isle of Man workers.

The Chairman: But, in the first instance, they will expect evidence that the job has been advertised, (**Mrs Thomas:** Yes.) but in the first instance, they do not require anything beyond that.

Mrs Thomas: No, they would rely on the paperwork in the first instance.

The Chairman: Under what circumstances would they probe further? Would it be the nature of the job, or...

Mrs Thomas: If they are unsuitable with the response from the employer as to reasons why the Isle of Man workers were not considered suitable, they will invite the employer along to give further evidence as to why the Isle of Man workers were not considered suitable.

The Chairman: Thank you.
Mrs Christian.

Mrs Christian: Yes, thank you.

The vast majority of applicants will be under the Control of Employment Act and therefore from the UK, the European Union, the EEA countries?

Mrs Thomas: Yes.

Mrs Christian: In the evidence we have been given, there is a perception, in some parts of the Island, that some immigrants may be undermining wage structures and so on. You have said that you do not grant work permits unless at least a minimum wage is stipulated by the potential employer. What checks happen after the work permit is granted, and indeed before renewal of an application for a renewal, in terms of actual pay and national insurance records as an employed person?

Mr Arrowsmith: I am here as a work permit inspector, but I also work under a wide range of employment laws – anything to do with employment law, basically, I can inspect under. Minimum wage is one of those. I do regular visits to employers, because we hear the same things as you do. We hear which employers are supposedly paying under the minimum wage and we have a right to examine the wage records, and the perception is not backed up by the reality, I do not think.

If somebody is paying under the minimum wage, we do take action. There are various routes that we can take, but I have to be honest and say that I have not found an awful lot of employers that are paying under the minimum wage.

Mrs Christian: Can I follow that up with a parallel question, and that is: to what extent do you uncover workers without work permits?

Mr Arrowsmith: We do discover them. I think, again, the perception may be that there are hordes of people working illegally without work permits. We receive an awful lot of anonymous complaints – people do not like to put their name to them – and a common one may be a lot of Poles working on a building site. We will immediately investigate that and when we get there, we find that the story is somewhat different.

We do uncover them. We have two cases currently at the Attorney General's waiting, hopefully, for court action. We have two more files that have been prepared, ready to go, but the perception is again, I think, slightly different from what we find when we are out visiting employers.

Mr Kelly: It might be worth mentioning, as well, that under the new DTI Minister, Mr Cretney, the Department has adopted a more proactive approach to enforcement of legislation, and we have developed a new enforcement strategy, which is currently with the Attorney General's Chambers, to make people more aware of the fact that we are enforcing the legislation and that is a priority for us.

Mrs Christian: Can I just ask one final question, please, Chairman.

The Chairman: Yes.

Mrs Christian: You have mentioned that there are criteria which apply when you are assessing the issue of a work permit, Mrs Thomas. Has the Minister given you any directions in terms of size of family that should be permitted in relation to granting of applications, or any other criteria?

Mrs Thomas: Yes, one of the considerations is if a family has four or more children, that work permit application would be automatically considered by the Work Permit Committee.

Mrs Christian: Thank you.

The Chairman: Thank you very much.

Just to follow up, before I ask Mr Henderson... On that point of family size, the regulations, of course, stipulate that... they set out the matters to which regard shall be had and the matters to which regard may be had, and one of the matters to which regard may be had is that very question, and quoting:

'The number of persons in the family of the relevant person, the number of additional relatives coming to live in the Island, and the likelihood of the numbers involved causing a problem to the Island.'

That is set out as one of the matters to which regard may be had. You have explained that, in the case of four children or more, the application is referred to the Work Permit Committee. Can you tell us anything about rejection of applications on the basis of this criterion of family size and dependent relatives likely to come in? Has that happened, and can you point to any examples of where it has happened?

Mrs Thomas: Yes, we had an application for a person coming from Poland. He had declared that he was coming to work here on the Island for a relatively low wage as a labourer. He declared that he had four children. All the four children were school-age children. The Committee took into consideration the ages of the children, the salary that the applicant would be earning, and took into consideration the cost of educating those children on the Isle of Man and the cost of the healthcare that those children would be provided with, and refused the application, based on the salary of the applicant not being able to... the cost implications, sorry, of educating those children and the likelihood of that applicant having to claim benefits because of the salary that he would be earning.

The Chairman: So that is an interesting example and it is obviously quite a recent one. How often does that happen, in your experience?

Mrs Thomas: Not very often.

The Chairman: No. Okay. Thank you for that. Mr Henderson.

Mr Henderson: Thank you, Vainstyr Loayreyder.

You mentioned about the minimum wage earlier, something that Mrs Christian has touched on. Is there scope for an employer to say, yes, we are going to employ this person on the minimum wage or above, but in fact, is there any way in which they saw fit to actually employ that person beneath the minimum wage?

Mr Arrowsmith: Obviously, an unscrupulous employer might try that. If we become aware of it, then they are leaving themselves open to action leading to prosecution.

Mr Henderson: Have you ever come across a situation such as that?

Mr Arrowsmith: In the last year, I have dealt with... There is still one case ongoing. There have been two cases where employers have paid under the minimum wage. We have various ways of dealing with that: the employee may wish to take it to a tribunal; we may wish to take prosecution action; or the normal case is that we ask the employer to make good their underpayment and on each occasion, the employer has done that.

Mr Henderson: You do not see that as a major problem? It has happened, but on a rare occasion, that you know of.

Mr Arrowsmith: Yes. We do two types of visit, as an inspector. We do unplanned visits, which are basically spot checks, if we get a complaint about someone. We also have a programme of targeted visits, so if we feel that a certain sector of employment may be paying less than the minimum wage, we will arrange to visit these places and we have the power to go through their wage records and check everything – payslips – to ensure that they are paying the minimum wage. To be honest, we do not come across many instances where they are not paying it.

Mr Henderson: I have just got a few further questions, Vainstyr Loayreyder.

The Chairman: Yes.

Mr Henderson: You were talking about when you measure up CVs and so on with applicants and testing the Isle of Man applicants to that of applicants from away. I am just wondering: I am quite conscious of complaints over the past two years to myself, certainly... pick a Government Department: for example, the DHSS – where at times there seem to be middle-management appointments. There have been local applicants with the experience and so on, yet there seems to be an appointment made from across the water – whether it is from the UK or slightly further afield.

How closely do you or the Committee scrutinise DHSS applications and job adverts to assess the suitability of the local candidates and so on? I am quite conscious there have been a lot of UK and further-afield appointments made within that Department, and I am quite conscious there are local people with experience and qualifications who could do that job.

A further question to build on that would be, I am quite conscious within the work permit legislation it says a suitable local candidate or with training could fulfil that post. What would your comments on...

Mrs Thomas: If a local candidate has objected to the granting of a work permit and if they feel they were a suitable Isle of Man worker when they have applied for the position, they would be invited along to meet with the Committee and air their views about why they feel they were a suitable Isle of Man worker, and their comments would be taken into consideration alongside the consideration of the work permit application.

Mr Henderson: Right, can I just interrupt you on that. How would they know to make an objection to the Work Permit Committee? I am quite conscious that a lot of people are ignorant of the 'systems of Government'. Somebody aspiring to be a ward manager, say, pipped at the post, UK appointee comes in. How would they know to do that?

Mr Kelly: The Committee would not be automatically triggered just by an objection, would it?

Mrs Thomas: No.

Mr Kelly: The Committee would consider it, anyway.

Mrs Thomas: Yes.

Mr Kelly: I can give you an example. In our Department, a year or so ago, we had a post, a senior management position in DTI, in which a prospective candidate was interviewed along with a number of Isle of Man candidates. An appointment was made provisionally. I am not aware of any objections being raised, but the Committee turned down the permit, and I, in fact, was invited to meet the Committee and explain the position, and the Committee still maintained its position, and that is within our own Department, within DTI. So it does take a very proactive stance on these matters.

I cannot personally comment on a specific Department, DHSS. I do not know whether you have experience on the ground, Tina, of the...

Mrs Thomas: Usually, the Government posts, the

management-type posts, would go to the Work Permit Committee where there have been Isle of Man worker applicants for them to consider. Usually, most of those applications go to the Work Permit Committee for consideration, and they would then look at the Isle of Man worker applicants' CVs against the job description, and they would consider the applicant that they wish to appoint, and they would view the comments that the employer has made on those Isle of Man workers. If they are not satisfied with the comments that they have made, then the employer would be invited along to meet the Committee.

Mr Kelly: Mr Arrowsmith had something to add to that.

Mr Arrowsmith: Just going back to Mr Henderson's point about how would a member of the public know how to make an objection.

Mr Henderson: Yes, exactly.

Mr Arrowsmith: We have just posted on our website a new guidance booklet and they will be getting issued around the Island shortly. Part of the process is going to be to put information on our website on how to make the application. Whether that is by means of a standard form which somebody downloads or prints off and fills in, we have not decided yet, but we are aware that people may not know how to, as you say, make an objection, so we are taking steps to put that right.

Mrs Thomas: The next Committee date when the Work Permit Committee will meet is posted on our website.

The Chairman: Thanks, Mr Henderson. Mr Crellin, have you any points?

The Clerk: Yes, Chairman, if I may, just a couple of points.

You mentioned before that, as Secretary with delegated authority, you refer certain applications, which are contentious, to the Committee. Can you define 'contentious'?

Mrs Thomas: Applications where I am unable to establish Isle of Man workers, if there have been a large number of Isle of Man worker applicants, they would go before the Work Permit Committee. Applications where the minimum wage is not being paid, and applications where there are four or more children in the family, and sex-discriminatory type applications.

Mr Kelly: I think there is an element of judgement on board as well, it would be fair to say.

Mrs Thomas: Yes.

The Clerk: Yes. I am not sure about the word 'contentious,' because if the application does not comply with the regulations by having not been advertised, for instance, are you empowered to refuse that, as Secretary, or does that have to go to the Committee?

Mrs Thomas: That would have to go to the Work Permit Committee.

The Clerk: Do you refuse anything under delegated authority?

Mrs Thomas: Only applications under the Immigration Act that clearly do not... the person does not have a... under the Immigration Act, if they have... For instance, if they are a working holidaymaker and they have worked for 12 months of their working holiday visa, I would seek information from the Immigration Office and we would refuse the work permit, or anybody who is not registered under the Certification of Craftsmen Scheme, I would refuse their application.

The Clerk: So effectively, it is not then 'contentious' applications, but applications that do not comply with the regulations, all go to the Work Permit Committee?

Mrs Thomas: Yes.

The Clerk: An application is made by an employer to employ a person... What are the criteria for an application by a person for self-employment? Say someone comes to the Isle of Man, puts an application in: 'I want to be a self-employed bricklayer.' What criteria are applied then – on availability of Isle of Man workers?

Mrs Thomas: Self-employment is treated in that we would not issue a permit unless the person was registered under the Certification of Craftsmen Scheme. They would have to be registered. They would also have to have been accepted by the Department of Health and Social Security as being in genuine self employment for paying class 1 contributions.

We take the view that if a person is in self-employment, if the work is not there, they will not be able to work – it is slightly different – but we can take into consideration if there is a downturn in certain areas, i.e. there have been applications that I know have been to the Work Permit Committee, i.e. for driving instructors etc. If there have been complaints that that particular industry... there are sufficient driving instructors on the Island, if the Committee receive letters of complaint, any self-employed applications in that particular field would then be brought before the Work Permit Committee.

The Clerk: Within the Work Permit Committee meetings, do they just solely deal with applications which have been referred to them, or do they – possibly this is a question that may be directed towards Mr Kelly – do the Work Permit Committee liaise with such organisations as the Chamber of Commerce, the Employers' Federation, to gauge the needs of industry in the Island in addressing their standards, their criteria for dealing with applications?

Mr Kelly: It might be worth pointing out we have had a recent review of the work permit system – you are probably aware – an independent external review, and one of the quick wins that was identified, would be to provide for the Minister to clarify his directive to the Committee and to provide the Committee with clearer economic data on which to evaluate its decisions.

So I think, Tina, you would be involved with passing that information through to the Committee (**Mrs Thomas:** Yes.) and, in so doing, you would liaise with contacts within DTI – (**Mrs Thomas:** Yes.) employment law officers, that type

of thing – and externally with the Chamber and Employers' Federation.

We have these fairly new groups called sector skills groups. They have been set up to provide a dialogue between the Department and each sector of the economy. So if, for example, in the finance sector, there was a specific requirement for fund managers, that would be communicated to the chair of the sector skills group. The DTI does not chair these groups generally – it sits on the group – but I, or one of my colleagues, would be aware of that and would pass that information through, as part of the economic intelligence gathering, to the Committee.

I need to point out this is early days for this process. The groups have only been running for a year and it is far from perfect, but there is an improved stream of information coming from the industry to the Committee for the first time.

The Chairman: Thank you.

I want to move on to Overseas Labour Scheme permits, but just before I do, to wrap up the work permit under Control of Employment Act issue, for what period are permits issued, and what happens thereafter?

Mrs Thomas: The majority of work permits are issued for a 12-month period and, due to the Act, which says that consideration being given to Isle of Man workers within a 12-month period... If it is a senior appointment for which there is not a likelihood of there being an Isle of Man worker available within a 12-month period, we would want an indefinite work permit, which is for a period of five years.

The Chairman: For five years, and after five years?

Mrs Thomas: That person would become an Isle of Man worker.

The Chairman: Automatically, no further requirement for a work permit after five years' residence.

Mrs Thomas: Yes.

The Chairman: Does this need to be continuous residence, or in aggregate?

Mrs Thomas: Continuous residence.

The Chairman: Continuous residence, thank you.

Mr Kelly: It might be helpful, Chairman, to point out that one of the points for consideration from the recent review is to extend that period of five years to 10 years.

The Chairman: I was going to go on to that, really. You made reference to the recent review. Could you just tell us what the principal changes are? With particular reference to the 10-year period, what difference is that going to make?

Mr Kelly: We have not implemented any of the changes yet, as such. The review suggested two sets of recommendations. The first set were what you might call operational adjustments to the system which could make it operate better and perhaps in a more business-friendly way. Examples would be: a better IT system; I mentioned

clear direction from the Minister; policy guidance in the public domain – in other words, how does the Work Permit Committee arrive at its decisions, putting that in the public domain for the first time; the economic data which the Committee needs from the sectors to make its deliberations; and better enforcement, and we are addressing that through the enforcement strategy. So a lot of those operational issues have either been achieved or are in the process of being achieved.

The second part of the review was a more far-reaching set of recommendations, which are called points for consideration, which we took to Tynwald in July. These will require some degree of primary and secondary legislation amendment to be implemented. We have consulted on a number of these recommendations and they concern such things as: permits being transferred between sectors, so that if somebody obtains a permit to work in a sector and then goes to another position, they can retain that permit; exemption categories, something else we have consulted on.

What has come out of the consultation very clearly, which is not a huge surprise to us, is that this is a very high-profile subject. We had a significant response – 25 submissions to the consultation, which we are still working through – and what this is leading to, is that there will need to be amendment regulations brought to Tynwald and there will probably need to be a Control of Employment (Amendment) Bill at some point brought forward. So, in other words, none of those have been implemented yet. What it almost certainly will require is a second period of consultation and a broader consultation on the changes to the regulations.

The Chairman: So what is the rationale for the extension from five to 10 years?

Mr Kelly: The rationale is to avoid granting Isle of Man worker status by default. As we have just discussed, if you give a permit for five years, at the end of that period there is no requirement for a permit because the person is an Isle of Man worker. I think I am right in saying it used to be 10 years at one point –

Mrs Thomas: It did, yes.

Mr Kelly: – and then it has been reduced. Was it 1983?

Mrs Thomas: 1983.

Mr Kelly: Yes, to five years, and now it has clearly been picked up, there is a body of opinion that feels that the granting of longer permits would avoid that Isle of Man worker status being given by default. Clearly, this has implications for things such as immigration, but also for the Residence Act, so they are intertwined.

The Chairman: Mr Gill, did you have a final point to make?

Mr Gill: Thank you.

Just briefly, Chairman: the dependency test of four children, would you also have a similar test if there were a lesser number of children, or indeed any other dependants, but those dependants had conditions that would be an additional burden on the health or social security?

Mrs Thomas: Possibly we would take it to the Committee if they were bringing dependants with them. It is something for them to consider.

Mr Gill: Is that a requirement, to advise you of that on the application?

Mrs Thomas: It is.

Mr Gill: Is it an offence not to advise that?

Mr Arrowsmith: There is no requirement on the application form to declare the state of health of a dependant, only the number and size of the family. So we would not ask if somebody is requiring any health treatment.

The Chairman: Mrs Christian.

Mrs Christian: Chairman, I know you are anxious to move on, but this is a follow-on from that. If indeed a person genuinely applied for a work permit, intending to leave their family in their home country, and subsequently brought them here, there is no control over that, save the restriction on benefits they can receive under the benefits structure. Is that correct?

Mr Kelly: They would not be able to claim benefits until they become an Isle of Man worker, basically.

Mrs Christian: No, but there is nothing, actually, to stop them bringing their family here.

Mr Kelly: We would become aware of that. The renewal system at the moment is a very straightforward tear-off slip: 'I wish to continue employing this person in this job.' We are changing that so that they have to declare any changes of circumstances: have there been any criminal convictions, any changes in family members that they are supporting, and so on. We are still waiting for the actual wording of that, because obviously we need to get it legally correct, but it is something that we are aware of and...

The Chairman: Do you give conditional permits? In other words, supposing at the first application, the applicant... Let us say there are five children. That would normally be referred to the Work Permit Committee. If, however, the applicant comes in themselves and only subsequently do the dependants come in, what mechanism is there for controlling that, if any?

Mrs Thomas: I am sorry, where are you coming from?

The Chairman: In the first instance, you would be referring and potentially refusing the application on the grounds of family size, (**Mrs Thomas:** Yes.) but if the applicant is not bringing their family in straightaway and only does so in year two or year three, what control do you have in that situation?

Mrs Thomas: Even if the applicant says they are not bringing their family to the Isle of Man, the Committee will consider that as a family unit coming to the Isle of Man.

The Chairman: So they would apply the criteria from the word go?

Mrs Thomas: Yes.

Mr Kelly: So it is as though potentially it would be the family unit coming to the Island.

The Chairman: Thank you.

We have been talking about work permits under control of employment legislation, and therefore we are dealing with people from the UK and the EU. People from outside the European Union, of course, as we said at the outset, come under a different Scheme – the Overseas Labour Scheme – and you are responsible, Mrs Thomas, for administering that, under delegated authority. So the responsibility for approving these applications is, in fact, yours and yours alone.

Mrs Thomas: Yes.

The Chairman: Do you liaise with the Immigration Office on applications?

Mrs Thomas: Yes, we have a very close relationship with the Immigration Office. I have daily contact with the Immigration Office.

The Chairman: Why would you liaise with them? What would be the purpose of that liaison?

Mrs Thomas: If we have an applicant who is currently in the UK on a UK work permit, we would seek immigration advice about that individual. If we have persons wishing to come to the Isle of Man on what we would call a letter of permission – they are only coming to the Isle of Man on a temporary basis – those applications are all sent to the Immigration Office for their comments. If I have any questions about an application, I can always liaise with the Immigration Office about any application, really.

The Chairman: So what would be the criteria you would apply then when considering an application? Presumably, the immigration procedures have been complied with and you would confirm that with the Immigration Office. What other criteria do you apply?

Mrs Thomas: If I am looking at an application from an employer... It is always the employer who makes an application for an overseas work permit. The individual has no input into the application whatsoever.

The application must meet certain criteria, as dictated by the UK Work Permits Scheme, in that the individual would have to have an equivalent of a UK university degree qualification, an HND qualification relevant to the post on offer, or an HND qualification not relevant to the post on offer, but with one year's work experience at NVQ level 3, plus the HND qualification, or the individual would have to have three years' work experience of NVQ level 3. I ask for qualifications of the individual. If the individual has qualifications, they would be submitted with the application.

The job would also have to have been advertised not only here in the Isle of Man, and made available to Isle of Man workers, it would also have to have been advertised in the United Kingdom with either a journal or newspaper or an agency that has a European circulation. We have to be able

to establish that there are no suitable Isle of Man workers, UK workers and EU workers first before we would consider issuing an Overseas Work Permit.

The Chairman: So, just to be clear then, the requirement is to advertise in the Isle of Man and –

Mrs Thomas: United Kingdom.

The Chairman: – in the EU.

Mrs Thomas: Yes.

The Chairman: So, there would be no circumstances whereby an overseas worker application would be considered on the strength of advertising alone in the UK or the EU?

Mrs Thomas: No, it has to have been advertised in the Isle of Man as well.

The Chairman: Right. Do you take account of the size of an applicant's family in the same way as the work permit system can have regard to that?

Mrs Thomas: No, there is no question on the application form for size of family.

The Chairman: So, unlike the applicant from the UK or the EU who, on the application form, has to state the size of the family, which may cause the application to be refused by the Work Permit Committee, in the case of an overseas worker, there is no requirement to state the size of the family?

Mrs Thomas: No.

The Chairman: What happens then if the applicant, having been successful, wants to bring family over subsequently? What control, if any, is in that situation?

Mrs Thomas: If I decided to issue a work permit for that individual to come to the Isle of Man, the employer is responsible for couriering that work permit to the individual in their country. They, in turn, have to take that work permit and their passport to the nearest British High Commission, who would interview the applicant, and they would also have to take along their documentation for their qualification criteria etc.

They would be interviewed by an officer at the British High Commission, a report would be submitted to the Isle of Man Immigration Office, and it would be up to the Isle of Man Immigration Office, whether they would issue the visa for that individual to come to the Isle of Man. Immigration may be able to clarify whether they ask any questions about family at that point.

The Chairman: But it is really a *fait accompli* by that time?

Mrs Thomas: I would not have said so, no. That individual is interviewed. There is a double check. I am issuing the work permit for that person to come here to work. Immigration interview that individual and they have different criteria that that individual is interviewed over.

The Chairman: If, subsequently, the individual wishes to bring dependants over, the same process needs to be gone through at the British High Commission?

Mrs Thomas: Yes, they would apply for their dependants to come in as dependants of a work permit holder.

The Chairman: Are you aware of any circumstances where that has been refused, such applications?

Mrs Thomas: That would be for the Immigration Office.

The Chairman: Yes. So you are not aware of any and would not have cause to be aware of such a situation?

Mrs Thomas: No. Any dependants who are given dependant status would then fall under the Control of Employment Act.

The Chairman: Any dependants who were given... Just clarify that.

Mrs Thomas: Yes. If a work permit holder is granted a visa to come to the Isle of Man as a work permit holder, their dependant would be given a visa to come into the Isle of Man as a dependant of a work permit holder. They would then fall under the Control of Employment Act and any subsequent employment that the dependant wished to undertake, they would require to have a Control of Employment Act work permit.

The Chairman: Okay, thank you.

We are aware that the requirement for a person from overseas to be able to apply for indefinite leave to remain was changed from four to five years. That is quite a recent change, but before that change was made, the maximum period for the initial permit was four years, and in the fifth year, if the person was still in employment and wished to continue employment, the employer would make application under a different system for a work permit for that year five, and it would only need to be for one year, wouldn't it, because after five years the person would automatically acquire Isle of Man worker status and would not need a work permit?

Mrs Thomas: Yes.

The Chairman: How many applications do you recall being made for that particular circumstance, for somebody who had been here under the Overseas Labour Scheme for four years and had to apply for a work permit for the other year?

Mrs Thomas: I could not really give you a figure for that, to be honest.

The Chairman: Do you recall such applications?

Mrs Thomas: Yes.

The Chairman: When the change was made then, can you recall if the DTI was involved in discussion over the change?

Mrs Thomas: I do not know whether Mr Kelly would be able to answer that. I was actually off ill at the time when that change took place.

The Chairman: Mr Kelly.

Mrs Thomas: It was in May 2005.

Mr Kelly: I am afraid I had just joined the Department. I joined in April 2005. I am not aware of the Department's involvement in those discussions. I can certainly, by all means, check it out for the Committee and get back to Mr Crellin on that point, if you would like me to, Chairman.

The Chairman: Yes. We will follow that one up because it was quite a significant change, wasn't it, because the change from indefinite leave to remain criteria changed from four to five years. After five years, by default, that person can stay and becomes an Isle of Man worker, (**Mrs Thomas:** Yes.) and one would expect a change of that significance to be discussed with the Department of Trade and Industry.

Mr Kelly: It may well have been.

The Chairman: It might have been. We will follow that one up. Thank you very much.
I will ask my colleagues if they... Mrs Christian.

Mrs Christian: Yes, thank you.

This issue of first having to advertise in the UK and EEA before you can grant an OLS permit, how effective is that? It seems hard to imagine many jobs where you could not find a suitable person in the whole of the EU.

Mrs Thomas: Overseas work permits are only granted to highly skilled individuals. We issue a very low number of overseas work permits, compared to the Control of Employment Act. So usually work permits are granted in sectors like the e-gaming sector, where you would have to have specialist skills etc, and areas of that nature, or in the finance sector for actuarial candidates. They are always, or usually, highly professional-type individuals.

The Chairman: But not exclusively so, surely? We know of sectors in the care industry.

Mrs Thomas: Yes, that sector has been tightened up of late. We do not issue work permits to individuals in the care sector coming from the Philippines now, unless they are coming here to be a registered nurse. They would have to be a registered nurse in their country, in the Philippines. They would have to now be sponsored by a care home in the Isle of Man to go through the Overseas Nurses Programme and become a UK-registered-nurse equivalent here before we would issue a work permit for that person. We do not issue permits to individuals coming from the Philippines to be senior care workers or healthcare assistants.

Mrs Christian: Chairman, can I just follow on that?

The Chairman: Yes.

Mrs Christian: I fully understand that there are some professions in which there is a shortage, even in Europe, and

that may well be one of them, but I am interested to hear what you have said about the criteria. However, is it the case, or not the case, that immigration OLSs have been given for people in the hospitality industry, catering, and so on?

Mrs Thomas: Yes, we have issued permits to chefs coming to work in Chinese restaurants or Indian restaurants.

Mrs Christian: With degrees?

Mrs Thomas: A part of the criteria is that that individual must be skilled to NVQ level 3 work experience. They must have three years' NVQ level 3 work experience to undertake that role. We check this by their past references from hotels that they may have worked in overseas. Immigration... If we decide, based on that reference, we would check out the hotel on the internet to make sure it is a *bona fide* hotel. We do not ring the hotels, as we cannot be guaranteed that we will be speaking to the individual who is named on the reference, and we cannot guarantee that there will not be language barriers.

So we accept the references if they make the criteria of NVQ level 3. We would issue the permit. That individual then has to attend the British High Commission, where they will be interviewed by a British High Commission official. They have to take all their documentation with them to the British High Commission and the British High Commission have the right to investigate those references. They could visit the hotel or speak to the hotel, if they are unsure of anything. They then submit a report to the Immigration Office here on the Isle of Man with their recommendations on their report and it is up to the Immigration Office here as to whether that visa would be issued to that individual to come to the Isle of Man.

The Chairman: Just following up on that, then: the requirement for advertising in the UK and the EU to exclude the possibility of applicants from the UK or the EU... Are you saying that that is set to one side, provided these other criteria – this NVQ3 and above qualification – are met and satisfied on the immigration side?

Mrs Thomas: No. The employer always has to advertise the position.

The Chairman: And it can then be potentially refused, if there are deemed to be suitable applicants either from the UK or the EU?

Mrs Thomas: Yes.

The Chairman: The EU is a big place now. One can envisage that it would be very rare circumstances indeed where a post in the Isle of Man cannot be filled – any sort of post – by either somebody from the UK or the EU. Why is there the requirement at all for people to come in under the Overseas Labour Scheme, one might ask?

Mrs Thomas: Only because of shortage of skill, I would have said.

Mr Arrowsmith: The whole thing of advertising and seeking the availability of Isle of Man workers initially... We have to take it as read and take on face value that the

advertising is done correctly and we do check. The same with OLS – we check the advertising, that it has been advertised in the Isle of Man, the UK and Europe. If nobody applies for it, or the right people do not apply for that job, then that is when somebody would apply for a work permit.

The Chairman: I can see that being the theory, but do you really follow through and check whether there have been no applications from anywhere in Europe for a particular job?

Mr Arrowsmith: I can speak from experience. In the last year, I dealt with an overseas work permit for a gaming company and we initially refused the work permit because there was somebody from Finland and there was somebody from Spain who had applied for the job and we got the CVs. So they are looked into as thoroughly as the Isle of Man CEA permits are looked into.

What I would say is that the overseas work permits have much stricter criteria than Tina, when she makes the decisions, has to go by. The Control of Employment Act deals with matters that you 'may' have regard to and 'shall' have regard to. You have to have regard to everything in the OLS system. So, it is all there in black and white.

The Chairman: Yes, but, with respect, what is not there, unlike the work permit system, is size of applicant's family. That is not on the application form.

Mr Arrowsmith: No. We are guided by the United Kingdom on that, unfortunately. We administer the scheme under the –

The Chairman: Yes. Before I bring in Mr Henderson, the Highly Skilled Migrant Scheme is, we understand, a new policy development of the United Kingdom in terms of immigration. That will, to a large extent, drive the criteria for entry to the Isle of Man. In other words, the points system that is being embarked upon will have a lot of implication for the Isle of Man. How do you see that operating and what changes will need to be made to the work permit situation to take account of that?

Mr Kelly: Well, certainly in principle, we would welcome it, because it enables us to have a clearer idea of the impact on sectors. The equating demand and supply for particular skilled labour of the potential immigrant, because the immigrant will have been essentially assessed according to their benefit to the economy. I understand under the economic criteria for which points would be awarded, that would assist the Work Permit Committee and Tina, in coming to a conclusion for the likely economic impact for the Manx economy of that particular migrant.

The Chairman: The criteria to be drawn up will be framed with the benefit of the British economy in mind and a person getting entry through that particular route will have the automatic right, not only to go to the United Kingdom, but to the Isle of Man.

That is irrespective of the local labour situation... is it not, at the moment, has to be a specific post and specific criteria? Under the proposed system, it is going to be made much looser and general categories of skills which may not be in the interests of the Isle of Man, surely?

Mr Kelly: That is one of the points that we have been looking at. With immigration, we have been discussing this with them. It is how that evolution, that change which is coming about, which is beyond our control essentially, is going to impact on those areas which are within our control, which is the new approach to the granting of work permits according to economic need, essentially. It is called the sectoral need.

We do not have a clear answer at the moment to that, one way or the other. It is something that we are going to have to –

The Chairman: Okay, when does this new points system – it is a points system, is it not? When is it intended to come in?

Mr Kelly: It is very close to being in, is it not, in the United Kingdom?

Mrs Thomas: It is about March next year.

Mr Kelly: It is within months, not years, certainly.

The Chairman: Within months. So what discussion has the Department of Trade and Industry had with the Immigration Service over this change?

Mr Kelly: We have had discussions with Immigration, External Relations Division, Passports Office and the Economic Adviser. I understand it is going to figure in a paper from Mr Carse, the Economic Development Committee of the Council of Ministers, on 3rd December. We have submitted our views to that. I believe Immigration have submitted theirs and he is going to come forward with some proposals.

The Chairman: So, there will be... There is not necessarily anything automatic about this. There will be a political, an Isle of Man Government, input to this change through the Council of Ministers?

Mr Kelly: Yes. That is correct.

The Chairman: Thank you for clarifying that. Mr Henderson.

Mr Henderson: Thank you.

Reverting to the issue of the hospitality trade; you said you would check references out and so on and the hotels that applicants may have worked in to test their level of NVQness. Somebody applying from China, for instance, to work here, but had Chinese references. How would your section cope with that?

Mrs Thomas: We always ask for them to be translated into English. They have to be officially translated.

Mr Henderson: How would you validate whether that person had in reality achieved NVQ level 3 upwards? How would you know?

Mrs Thomas: Well, we would look at the reference and we would look at the criteria that they would expect them to have been – like a head chef preparing the meals, preparing

the menu for the restaurant, supervising staff, have staff supervisory skills. That sort of thing.

Mr Kelly: It might be helpful to refer to an application which I think has come in within the last week, which was judged to be not a sufficiently skilled individual in the hospitality sector.

Mrs Thomas: Yes, we did have a recent application that was refused for a local restaurant and the references that were received were only character based, which we would not consider as acceptable of that individual's work experience. So, that application was refused. They appealed my decision and it went to a senior officer, who upheld the decision to refuse that work permit based on the skill of the individual.

Mr Henderson: Okay, what does the Scheme allow in reference to a requirement for a person to have a good working knowledge of the English language?

Mrs Thomas: That is something Immigration do checks on.

Mr Henderson: Right, that is outwith your particular remit?

Mrs Thomas: Yes.

Mr Henderson: Okay, thank you.

The Chairman: Mr Crellin.

Mr Crellin: Just on the duration of overseas work permits, what would be the average period that you would issue a permit for? Is that on request by the employer or do you put a limit on the time the permit is issued for?

Mrs Thomas: I think it is fair to say that most permits are issued for a two-year period.

Mr Crellin: What would be the criteria for renewal?

Mrs Thomas: The employer would apply for an extension of that work permit and they would have to state their case for keeping that employee in the role. We could request the employer, if we wished to, to re-advertise the position or we can agree to extend the work permit further.

Mr Crellin: So renewals of overseas work permits would lead to Isle of Man worker status for them?

Mrs Thomas: Eventually, after a five-year period, if that person remains on the Isle of Man for five years.

Mr Crellin: Okay, thanks.

The Chairman: Thank you very much. Mrs Christian, then Mr Gill.

Mrs Christian: Thank you.

If I could go back to the Highly Skilled Migrant Scheme, which, if it goes ahead, will permit people to come in without a specific job to go to, but with a particular skill. As

the Chairman has said, once they have got into the United Kingdom with that immigration status they can come to the Isle of Man. Are they going to be covered by the Control of Employment Act or simply by immigration status and, if it is an immigration status situation, what control will we have, in your view, if any, of the jobs that they take?

Mr Arrowsmith: They would come under the Control of Employment Act. So, if somebody is granted highly skilled migrant status, they need then to apply for a work permit under the normal procedures.

Mrs Christian: Is that clear under the Control of Employment Act and the Immigration Act?

Mr Kelly: You would know that?

Mrs Thomas: Well, the Highly Skilled Migrant Scheme is an immigration scheme that was brought in. We had a meeting with the Immigration Office and it was decided to run the scheme in the Isle of Man in October 2005. To date, we have issued 31 letters under the Highly Skilled Migrant Scheme. Those applicants then fall under the Control of Employment Act and require a Control of Employment Act work permit. I think it is fair to say that the majority of the 31 letters that have been issued to highly skilled migrants have been for doctors, who would then be exempt under the Control of Employment Act Work Permit Scheme requirements.

Mrs Christian: Thank you.

The Chairman: Just to be clear that these 31 are people originating from outside United Kingdom and European Union, who would otherwise have been under the Overseas Labour Scheme?

Mrs Thomas: As I said, the majority are doctors who have possibly been on the Isle of Man under a work permit, but have switched into Highly Skilled Migrant Scheme.

The Chairman: So, anybody coming to the Isle of Man under the Overseas Labour Scheme, are not under the Highly Skilled Migrant Scheme and people who, notwithstanding the qualifications you say they have to have, are less skilled, do not require to apply for a work permit under the Control of Employment Act, unlike these highly skilled migrants? You say they need to apply for a work permit?

Mrs Thomas: If you are on an Overseas Work Permit, you have a work permit to work here in the Isle of Man. If you are a highly skilled migrant, you would fall under the Control of Employment Act and would be required to have a work permit under the Control of Employment Act.

The Chairman: So, there are different criteria and different systems for people from overseas, from outside the EU, potentially? There are different criteria being applied?

Mr Arrowsmith: Yes, people coming under the Highly Skilled Migrant Act have proven their worth, as it were. They have shown that they have the skills and the qualifications. They are allowed to work here, but, in being allowed to work here, they still have to abide by the regulations.

The Chairman: And potentially, if numbers of dependants was an issue: four or more children, would that still apply in that case?

Mrs Thomas: That would be for Immigration to comment on.

The Chairman: It would be for Immigration, but the Control of Employment Act gives the Work Permit Committee the right to refuse on grounds of family size.

Mrs Thomas: Yes. Sorry, yes. The Work Permit Committee could have consideration for the size of the family.

The Chairman: Okay and would Immigration similarly have regard to the size of the family?

Mrs Thomas: You would have to clarify that with Immigration.

The Chairman: We will do that, but to confirm, as far as the Overseas Labour Scheme is concerned, with less skilled individuals, there is no family size criterion to be established or to be declared in the application?

Mrs Thomas: Not in the application.

The Chairman: No. That is fine. Mr Gill, could I just give you the floor for one moment?

Mr Gill: Thank you, Chairman.

Just for clarity, I should state that I am a Member of the DTL, but I do not have any political responsibility for any of the issues that we have covered here.

The Chairman: Right, thank you. We will get that on the record. Thank you very much.

We have overrun our allotted time and I will give Members an opportunity to put final points. Mr Henderson.

Mr Henderson: How many unannounced visits to employers have you made this year, say from January to now, roughly, ball park estimate?

Mr Arrowsmith: In the last six months we have been concentrating, due to resourcing issues, on following up complaints and allegations and the figure, we have, maybe, been doing half a dozen visits each week.

Mr Henderson: Half a dozen unannounced visits each week?

Mr Arrowsmith: On following up allegations and complaints. When we are carrying out a programme of targeted visits, historically, there has been two inspectors. That is going to be increased to three shortly to beef up what we do. Each Inspector will be expected to do three targeted visits per week, plus whatever other work comes in which we have to react to. So, three Inspectors doing three: that is nine per week.

Mr Henderson: Nine unannounced?

Mr Arrowsmith: No, they would be targeted visits, but they could be unannounced. They could be by appointment.

Mr Henderson: Right.

Mr Arrowsmith: We are not allowed to go on... In the past, I think, inspectors may have gone out on fishing expeditions, as it were: turning up to an employer just to see what happens. We do not do that any more. We have to have a reasonable suspicion or a feeling that there will be a reason for visiting that place.

Mr Henderson: So, in theory, if you had no complaints, a whole year could go by without you doing an unannounced visit then?

Mr Arrowsmith: No. I suppose in theory it could, but it does not work like that. We are expected to be proactive in what we do. We are aware, as anybody else, which areas of employment there are allegations of people working without work permits, working under the minimum wage where there are no contracts of employment. So, we do, perhaps, keep a closer check on those.

For example, one sector is construction which, on a monthly basis, we do unannounced visits and we are quite happy with what we are receiving from building sites at the moment, but we may decide to do visits on another sector of employment. It depends on the market at the time.

Mr Henderson: Okay. Thank you.

The Chairman: Thank you. Mrs Christian.

Mrs Christian: Yes. Can I just clarify that you do not have, on the CEA work permit side, any involvement at all with people who simply want to live here? You are only involved with people who want to work here?

Can I clarify whether that is also the case in respect of the immigration officer? Do you deal with immigration cases of people who just want to live here?

Mrs Thomas: Only employment.

Mrs Christian: Only employment. Right, thank you.

Can I ask you then, how many cases, Mr Arrowsmith, you have been involved within the last year, for example, on illegal immigration, as opposed to people who are breaching work permit rules under the EEA?

Mr Arrowsmith: I work with the Immigration Office on visits. We have carried one out this week. From my point of view, I would say, maybe, five visits with Immigration this year.

Illegal immigrants, to use the phrase, have been found. They have not always been working on the premises. My interest, as it were, stops if they are not working. So the numbers that may be found elsewhere on the premises would be a matter, really, that you would ask the Immigration Officer. Just to show, we currently have two cases where illegal immigrants were found working on the premises and those – the employers – are the cases I referred to earlier which, hopefully, we will be getting prepared to go to the Attorney General.

Mrs Christian: For prosecution?

Mr Arrowsmith: Yes.

Mrs Christian: Thank you. Thank you, Chairman.

The Chairman: Thank you. Mr Gill, final point.

Mr Gill: Could I ask, perhaps Mr Kelly? Did the DTI have a policy and, if they do, what is it in respect of breaches of work permit in relation to prosecutions, particularly first offences?

Mr Kelly: We have drawn up a policy. We have always worked along the lines of the Police Powers and Procedures Act in the 1990s in the way we handled cases and were handling people that were being interviewed, etc. We have never had a written policy until this year.

It was something that was mentioned in Nick Black's report. A lot of work has gone into producing the policy and that, again, is currently with the Attorney General to make sure it is legally correct. The policy is we have three stages and, as an inspector, have quite a bit of discretion on how we, and on what stage, come in at, as it were. The seriousness of the offence is taken into consideration; the number of people involved, perhaps; the history of an employer. If it is the first offence, for example, if an employer was found to have six people working with no work permits; they have never bothered to find out about them, then that would be a serious offence which could take to prosecution.

If an employer has these six men, five have work permits, one does not, well that is not such a serious offence. It would, maybe, be a warning. It may be a formal caution or we may decide, if it is a bad day, we may decide to take them to prosecution.

Since Mr Cretney took over there has been, perhaps, a change in policy towards enforcing the Act more stringently, rather than education. We still do educational visits, but we are being encouraged now that, if discrepancies are found, to take it as far as we can and there has been an increase in cases going to the Attorney General. We think that will continue.

The Chairman: Thank you very much.

Just a final comment from myself to Mr Kelly. This Select Committee, of course, is concerned with immigration, not with work permits, but we have been closely questioning you this morning on the basis, of course, that it is through the control of work permits that the Isle of Man has its principal control over what would be unrestricted immigration, albeit it covers people in employment or seeking employment.

Does the Department... is it undertaking any policy discussion currently in respect of changing the work permit system in anticipation of residency legislation being brought in, or residency controls as envisaged under the Residency Act?

Mr Kelly: I referred earlier, Mr Chairman, to Mr Carse, the economic adviser, putting a paper to the Economic Development Committee in December. The Department (a) does have discussions on a regular basis with Immigration and with the Treasury on these points and, more specifically, (b) has been invited to provide comments on the Social Issues Committee report 2004 into the implications of the Residency Act 2001. We supplied our comments to Mr Carse

and they will be built into his paper which will come forward to the Council of Ministers in due course.

The Chairman: And that Social Issues Committee report, can you confirm that that covers the secondary legislation and the regulations needed to implement the Residency Act?

Mr Kelly: Yes, indeed it does and it has a specific section which covers the labour market and the implications for proposals as the economic gateway – that type of thing – for work permit system and the labour market in general.

The Chairman: I see. Are you able to tell us, then, have you succeeded in reconciling the different systems of control of employment and the particular mechanisms we have talked about this morning within the context of the more general controls on immigration. Has the Department concluded its input into any new proposed system?

Mr Kelly: We have put proposals to Mr Carse, but, I have to say that I think it would be premature for me to comment on them at the moment until the Council has had an opportunity to consider them.

The Chairman: It is just so we are clear where your Department is up to.

Right, well, it just remains to thank you gentlemen and lady very much for attending this morning and helping us in our discussions.

Thank you very much indeed.

*Mrs C Moreton and Miss A Collings
were called at 11.56 a.m.*

EVIDENCE OF MRS C MORETON AND MISS A COLLINGS

The Chairman: Could I ask our next two witnesses to come forward, please, and take your seats?

If I could ask you to just introduce yourselves for the record, please.

Mrs Moreton: I am Christine Moreton. I am the Administration and Finance Manager for the Chief Secretary's Office, but one area within my remit is immigration. This is my colleague, Angela Collings, who is an immigration officer.

The Chairman: Thank you very much indeed. I am grateful to you for coming this morning and, of course, the questions that we have to put primarily relate to administrative procedures rather than, perhaps, broader policy issues which we do appreciate is not within your particular field.

So, could I invite you, perhaps, just to say what input you would have into work permit applications for overseas nationals? These are the people that we talked about latterly with the DTI colleagues, those coming in either under the Overseas Labour Scheme or under the highly skilled migrants scheme. How would you process such applications?

Mrs Moreton: If I can explain that, as a general rule,

Miss Collings would deal with most of the applications that come in. If I just give a general overview that, as far as immigration is concerned, the criteria for issuing the permit do not fall within our remit. We are concerned, once a permit has been issued and then the applicant is applying to come to the Island. I think Miss Collings could probably talk you through the actual process of that.

Miss Collings: Once the Work Permit Office have issued the work permit to the employer, that is then sent to the prospective employee who needs to go then and apply for the visa. They are generally visa nationals who want to come here on an overseas work permit. They would apply at the British Embassy or High Commission. They are then expected to fit the criteria of the immigration rules for a person wanting to come here for employment. One of those criteria is that they have that work permit. So, that is the first one.

They also have to show that they are able to maintain and accommodate themselves, that they have genuinely obtained the work permit and that they are capable of carrying out the work that the work permit has been issued for. So, when they put their application in, the entry clearance officer will want evidence to see that all that is in place and they will be expected to produce again, the references that they produced to get the work permit; any documents they have got which show what qualifications they have obtained and they will also, probably, be interviewed to show that they are able to talk about the work history that they are saying that they have had by producing the actual references.

The references themselves, because the Embassy staff are in the country where the premises are that they are saying they have worked in, they are able to check those references and very often, will have staff who speak the language and are able to speak to the employer and check that this person did actually work there. They are also able to check any documents they produce to show that they have got qualifications that they need. In particular, we are thinking about people coming from China to work as chefs in takeaways, etc. In China they have what they call the Chef's Book and this is something which they carry with them all the time and it shows exactly what grade of chef they are, when they qualified and they have to be able to produce this Chef's Book as part of the application. All these things are checked.

The staff at the British Embassy will then refer the application to the Isle of Man Immigration Office and advise us what they have discovered. If they have discovered that they have checked the references and they cannot verify that those references are genuine, if they have discovered they do not believe that the Chef's Book, for instance, is genuine, they will tell us this. They will also send us the record of the interview, so that we can see the kind of answers the person gave in interview.

If all those things are satisfactory and all the requirements are in place, they will advise us that they would issue the visa, if it was an application for the United Kingdom. We would then look at it all ourselves and decide whether we are satisfied with that ourselves and will issue for the Isle of Man. If, however, they point out discrepancies in the references, discrepancies in the interview, we are able then, based on the information they have given us, to refuse the visa. So, even though the person has got the work permit, it does not necessarily mean that they will get the visa to come here and work.

The Chairman: So, for an applicant, the first thing they must do is to get the approval of the Department of Trade and Industry for the work permit and then, ultimately, the Immigration Service of the Isle of Man has the final say. Just to give you a particular point, the size of the applicant's family, does that become a consideration at the time of giving immigration approval?

Mrs Moreton: It is not something that is taken into account. As we discussed earlier with the DTI, that they have been given authority by the Lieutenant-Governor to operate this Overseas Labour Scheme in a similar way as to how it is operated in the UK. In the UK there is no question about the size of the family.

The Chairman: So the criteria replicate those that apply in the UK?

Mrs Moreton: That is correct.

The Chairman: If the person goes to the British High Commissioners, the British Embassy, under what circumstances could they stipulate that they wanted to come to the Isle of Man? Would it be only if they could produce permission through the DTI, permission for a job in the Isle of Man? How would that apply in the case of somebody that simply is applying for highly skilled migrant status for entry to the UK? In other words, is anybody entitled to seek entry to the UK under the highly skilled migrant system, with the intention of coming to the Isle of Man? What control would you have for somebody who did not have a work permit specific to a job in the Isle of Man? What control, if any, would you have over that person coming to the Isle of Man?

Miss Collings: I would say that if a person is issued a letter by the work permits UK as a highly skilled migrant, having satisfied the criteria that they require, they are in their own country, they have got this letter and they are going to go and apply for a visa, if the job they have been offered is in the Isle of Man, they can then apply, with that letter, for a visa to come to the Isle of Man, having satisfied the criteria for the UK's Highly Skilled Migrant Scheme.

When that application was then referred to us, we would need to be satisfied that there was, in fact, a job available for them, that their intention was to come to the Isle of Man for employment and to be economically active in the Isle of Man. If they were vaguely coming here without a job in prospect, we would be looking very carefully at that application because they have applied and been given leave to enter the UK as a highly skilled migrant in the first instance.

It may well be that the job they have found is here in the Island, so therefore they would apply to come here, but only if that job brought them here and was available for them in the Isle of Man.

The Chairman: Other than that, there would be no specific control, of course, between the UK and the Isle of Man. If the person had the permission to enter the UK, with the intention of taking a job in the Isle of Man, there is no obligation on them to –

Miss Collings: – to mention the Isle of Man.

The Chairman: – to mention it?

Miss Collings: No, that is right.

The Chairman: No.

Mrs Moreton: I think that is an important point, Mr Chairman, that, under immigration, there is reciprocity between the Isle of Man and the UK –

The Chairman: Indeed.

Mrs Moreton: – and for foreign nationals who have got permission to be in the UK, they are free to come to the Isle of Man –

The Chairman: Automatically.

Mrs Moreton: – and vice-versa, provided they still meet the requirements for which they were admitted in the first instance.

The Chairman: Yes, indeed. Thank you very much. I will ask my colleagues perhaps to now open up the discussion. Mr Gill.

Mr Gill: Just on that last point, Mrs Moreton. When you say there are reciprocal arrangements between the Isle of Man and the UK, is it actually the Isle of Man and the EEA, or is it specifically the UK?

Mrs Moreton: When we are talking about foreign nationals we are talking about under the Immigration Act, so there is reciprocity between the Isle of Man, the Channel Islands and the UK.

Mr Gill: Yes, but as far as EEA movement there will... Do we all get reciprocal between the EEA and the Isle of Man?

Mrs Moreton: Under the Immigration Act, the EEA nationals are not subject to immigration controls, so they are two different things, yes.

The Chairman: Thank you. Mr Henderson.

Mr Henderson: What did you say the usual period of granting an overseas permit was?

Mrs Moreton: I believe Mrs Thomas said it was two years.

Mr Henderson: And what happens after two years? Is there any check carried out or does your office automatically assume that if there is no re-application then that person – you assume they have left.

Miss Collings: If an application is made to the work permit office by the employer to extend the length of time of the work permit, they make their own checks at that stage, that the employer still needs that to employ that person, the job is still there etc. Then, once the work permit has been extended, they have to apply to the Immigration Office for their leave to remain in the Isle of Man to be extended and

again a whole series of checks is in place in our Office before we will grant them further leave to remain.

Mr Henderson: Okay, expanding on that, somebody has had two years to stay here, time is up, no application for extended labour here. Do you take it for granted, your Office, that if that is the case, then that person has left the country?

Miss Collings: We do not have any checks on who –

Mr Henderson: Who may remain.

Miss Collings: – who leaves the Isle of Man and neither do the United Kingdom have any checks any more on who leaves the United Kingdom and they only do arrivals checks. If it came to our notice that somebody had stayed beyond the time that they were allowed to stay, clearly at that point we would take enforcement action, but we have not got the resources to go out and check on everybody who was given leave to come here to check whether they have actually gone home again at the end of their time.

The Chairman: But at that time they become an illegal... They are here illegally and enforcement action would be taken if it came to the notice of enforcement agencies. Thank you.

Mr Crellin.

Mr Crellin: Yes I am just clarifying something that was mentioned before by the DTI on the highly skilled immigrant programme, where an individual comes into the common travel area or into the Isle of Man as a highly skilled immigrant, then, on arrival in the Isle of Man, is subject to a permit under the Control of Employment Act. What would be the situation in Immigration if the Work Permit Committee refused the application for a CEA permit on the grounds of size of family or whatever under that criterion? The person then is legally in the country as a highly skilled immigrant and has immigration clearance to be here and yet the Isle of Man has turned down the right to work. Would that person be likely to come back to your Office and say, 'help me, please?'

Mrs Moreton: I think that is an interesting question that you pose and under the highly skilled migrant programme that is operated in the same way in the Isle of Man as it is in the UK, that people have to qualify for points and they can qualify for points in various ways: for example, you could have a degree or I believe their earnings in their country of origin are taken into account. I believe their age is taken into account. So, in general, those are the very type of people that the Island would seek to attract because of their skills, their experience.

Mrs Thomas identified before, most of the ones that have been dealt with are doctors, who have applied under highly skilled migrant status. I could not advise you of the other types, but I think they have all been in the professional arena, finance sector. This is a relatively new scheme: it has not been running all that many years, but if, as you say, there was no job for them in the Isle of Man, the person, provided they did not become a burden on public funds, if they then sought to renew their status, I think one of the criteria for renewing the status would be that they still had enough

points which they naturally would do through their degree, age etc. But I think they also have to show that during the time they have been here, their earnings have been of such a level to qualify.

Mr Crellin: With the current proposals in the UK to expand the points-based system, is that going to put more strain on the immigration authorities to deal with applicants coming in from outside? Just basically expanding the sectors.

Mrs Moreton: The points-based system: this is a new initiative by the UK which we in Immigration are liaising with DTI counterparts about, I think I should make it clear that it is referred to as a points-based system, but really there are five individual tiers within that system. It is for people who are coming to the UK for employment, but it also covers the full range of employment from the very highly skilled people who will be coming permanently to more temporary workers in the bottom tiers.

Mr Crellin: If possibly just to conclude, that the Government might find itself in an awkward position where CEA refusal to a highly skilled immigrant could cause a problem, one Office allowing entry into the Island to undertake work and another department saying, 'no, you cannot work because you have got a large family'. I think that is the end of that one, Mr Chairman.

The Chairman: Okay, thank you very much. Mrs Christian.

Mrs Christian: Thank you.

You have talked about the High Commissions and the Embassies doing checks for you: what proportion, in your experience, do they actually refuse, after doing those checks? Is there much evidence of people seeking to get in on fraudulent references or hypothetical hotels?

Miss Collings: It is a small proportion. Most of the people who are granted overseas labour scheme work permits are perfectly genuine and their employers perfectly genuine and they are coming here to do the job they say they are going to do, but we do get a small proportion, I have to say – no more than five per cent – who have produced false documents or are not genuine applicants or even perhaps the employer, as we have some doubts about the employer's ability to pay the wage that they say they want to pay the person etc. Those would be the ones we would refuse.

Mrs Christian: Could I ask a question further about enforcement. You have said that you have got restricted resources and therefore you are not proactive in pursuing whether people have left the Island after their permissions have run out. So, presumably then, you are reactive, if you get something reported to you. Do you liaise with the DTI on those issues in terms of enforcement and what powers do we have to deport people for example, if they have breached their immigration permissions?

Miss Collings: We have powers under the Immigration Act 1971 to remove from the Isle of Man anyone who is an illegal entrant, that means somebody who has come here without any right to come here. That would include people

who have breached the immigration laws of the United Kingdom, who have, therefore, lost their right to be in the United Kingdom and then travelled to the Isle of Man. Once they travel here they are an illegal entrant and they can be removed back to their own country. The way the legislation stands at the moment, if somebody has got permission to be here, for instance, as a visitor, just for a holiday, but then undertakes employment or makes a claim for public funds, they are also in breach of immigration law, but they can be deported back to their own country and deportation would mean that they would not be able to come back here for at least, I think it is five years, before they can ask for the deportation order to be lifted. That would include the United Kingdom if we deported them: they could not even come back to the United Kingdom for that length of time either.

Mrs Christian: Can I clarify, Chairman, do you deal with people who want to simply reside here, with their applications or do you deal only with applications for work?

Miss Collings: No, we get applications from people who want to come and live here. For instance, there is a sector for people who are retired persons, but have their independent means, who can afford to support themselves, have links with the Isle of Man and want to come and live here in time, but they do have to have a certain amount of money to live on without having recourse to public funds when they get here.

We also have students wanting to come here and study. They are allowed to work, but only part time, their main intention is to undertake studies.

Mrs Moreton: If I can add further to that, that there is quite a wide-ranging scope for people to come to the Island under the immigration rules, some only in a temporary capacity and they have got to return home, but there are other categories, as Miss Collings has identified.

Mrs Christian: Can I ask, is the route for residing here to get UK immigration status and simply come here or do people apply specifically to reside in the Isle of Man under our immigration procedures?

Mrs Moreton: I think it could be both. It could be people who have been in the UK and then come here, it could be people who may initially have had a job, for example as a nurse or a doctor in the UK and have then subsequently transferred to the Island.

Mrs Christian: Do they need permission to do that or are they covered by their UK immigration status?

Mrs Moreton: If they had qualified for an overseas labour scheme work permit in the UK then if they come to the Isle of Man they would need an overseas labour scheme permit issued by our DTI for work.

Mrs Christian: For work, but what about retirement or just residence? If they had come to the UK to live on their own resources, is there a further step in terms of immigration, if they decide then to move here or are they simply covered by that UK permission under the free movement in the common travel area?

Mrs Moreton: Yes, provided they still met the requirements of the rules for which they were originally admitted to the UK and they then moved to the Isle of Man, the same conditions would apply.

The Chairman: And normally that condition would be a stamp that said no recourse to public funds.

Mrs Moreton: That is correct.

The Chairman: In the case of the UK and that would replicate, apply here, automatically.

Mrs Christian: So they do not have to apply here?

Mrs Moreton: No.

Mrs Christian: Right, thank you.

The Chairman: Mr Gill.

Mr Gill: Thank you, Chairman. Are there countries which do not have reciprocal arrangements for deportation for certainly the UK, so if an illegal immigrant from a particular country was found to be an illegal immigrant in the UK or, indeed, on the Isle of Man, would we require a formal arrangement with, say Romania – do we have the power to deport people to Romania or any other countries which we do not have that arrangement with?

Miss Collings: We can deport people to whichever country we choose to deport them to, provided we can provide them with, or they have already provided themselves with, a travel document to travel on and that document has to be sufficient for the country we are deporting them to, to allow them to enter that country. There are certain countries where the obtaining of that travel document is difficult and those are the countries that it is difficult to deport people to. As a general rule, a document can be obtained and they can be deported to any country, apart from those countries where there are blocks on deporting people to anyway, because of humanitarian considerations.

Mr Gill: But there are no humanitarian considerations in any EU state?

Miss Collings: No.

Mr Gill: So every EU state, we would have the capacity to deport people back to that state through the UK?

The Chairman: In practice would it be a UK immigration officer that accompanied the person back to the country or would it be somebody from your Office.

Miss Collings: If it was an EU national who was being deported, provided the deportation was us, because with EU nationals it is slightly different, the deportation would have to be recognised by the Secretary of State as applying also to the UK. Provided that was the case, we would put the person on the plane here to a UK destination, the immigration service in the UK would then take over and put them on the next flight back to their own country, so that we work together

to make sure that the person goes all the way home and that applies to third country nationals, as well.

The Chairman: Thank you.

What happens when the family of someone entered with the work permit which is to come here?

Miss Collings: They would also have to apply for their own visas and that again is not an automatic issue. The main criteria would be that the work permit holder has to be able to maintain and accommodate that family once they get here, again without recourse to public funds. So if somebody is not earning enough to support or has not got a big enough place to live to support a wife and however many children they might want to bring, then those people would not be granted a visa to come.

The Chairman: So, would it then be the case that the potential for that difficulty would be picked up when applying for the visa? Would reference then be made to the employer and the DTI for confirmation that the person is able to support dependants?

Miss Collings: Not with the initial work permit holder's application, no.

The Chairman: So how would the immigration, the entry clearance officer, know whether the individual in employment was in a position to support dependants?

Mrs Moreton: Well, they have to, as part of the application for the visa, show how much money they are earning. They have to produce wage slips and bank statements to show how much money they have actually got and they also have to produce evidence of their accommodation which would include how big the accommodation is, how many rooms it has got and whether there is enough room for the family to join them.

The Chairman: Right and the children of overseas workers: first of all, can I ask, families of overseas workers, can they be prevented from coming here if the permit is only temporary? Is there anything to prevent the applicant bringing dependants over on a temporary –

Miss Collings: I think I am right in saying that if the work permit has been issued for less than 12 months the work permit's dependants can come with them, but any dependant, spouse for instance, would not be allowed to work –

The Chairman: Would not be allowed to work.

Miss Collings: – so they would have the endorsement that they could not work in their passport.

The Chairman: Right, anybody who is here under an overseas work permit and has children here, do they then acquire entitlement to British Citizenship, Isle of Man passports, what is the situation?

Mrs Moreton: I think that is a stage further down the line, Mr Chairman, to acquire British Citizenship. It is quite a lengthy process and, in general, it depends whether you are married to a British person.

There are two different ways of obtaining British Citizenship. If you were married to a British person, you would have to do three years here and then apply for naturalisation which, again, is quite a lengthy process and only when you are naturalised would you be able to apply for a British passport.

The Chairman: So simply being born here to parents of overseas workers does not give any entitlement to a British passport, is that correct, without these...?

Miss Collings: It does if the overseas worker has been here for five years and has settlement and indefinite leave.

The Chairman: Yes, and had been granted indefinite leave to remain. Yes, in that situation, right, okay. So after five years they acquire legal entitlement to be here for five years: any children born within the five-year period acquire, as dependants, rights of automatically British Citizenship, is that correct?

Mrs Moreton: It is at the time of the birth, so if the parent had the indefinite leave to remain when the child was born, then that child would be British.

The Chairman: Okay, thank you. Mr Gill.

Mr Gill: Thank you, Chairman.

I am just conscious it is very difficult to ask a question and then expect an answer. I am just conscious also that the answer you gave about deportation, I have heard and read different versions of that, so I wonder, in fairness, would it be possible for you to write to us to outline fully the situation regarding the different states which can and cannot be deported to?

Mrs Moreton: If I can make you aware that we are currently working on a detailed paper on deportation and we are in consultation with the Attorney General's Chambers on that. As you have identified, it is quite a complex area.

Mr Gill: And would you be in a position to advise us about the outcome of that work?

Mrs Moreton: In due course. At this stage it is only in its draft form but certainly when it is finalised we can make you aware of that.

The Chairman: Is it your Office that grants indefinite leave to remain?

Mrs Moreton: Yes.

The Chairman: Yes. If someone is given indefinite leave to remain in the UK, does that apply in the Isle of Man because of the common travel area?

Mrs Moreton: Yes.

The Chairman: Anyone who is granted Isle of Man worker status on the basis of five years' residency, are they given indefinite leave to remain by virtue of that five-year residency or do they need to specifically apply and have it granted automatically?

Mrs Moreton: They need to apply.

The Chairman: Okay. As far as actual applications for entry, how many would you handle in a typical week, would you say? I think we have heard there are 200 overseas labour scheme applications a year, but presumably there are applications not solely in respect of employment or under the overseas labour scheme, so how many would you handle in a week or a month?

Miss Collings: In 2006 the total for the year in all categories, as well as the overseas labour scheme: we had 1,497 applications that we dealt with.

The Chairman: 1,497 applications to enter the Isle of Man –

Miss Collings: – in all the different categories within the immigration rules, yes.

The Chairman: From people outside the UK and EU?

Miss Collings: Yes.

Mrs Moreton: If I can clarify that that total does include leave to remain applications – they were people who were already here who would be applying for extensions.

The Chairman: Of the 1,497 how many would, therefore, be re-applications, leave to remain?

Mrs Moreton: About half.

The Chairman: About half, so there are 700 to 800 new applications to enter the Isle of Man –

Miss Collings: In 2006.

The Chairman: In 2006, from outside the EU?

Mrs Moreton: Yes.

The Chairman: And of those applications, how many would be successful and granted.

Miss Collings: Seventy were refused but that 70 includes any applications for leave to remain that might have been refused, as well.

The Chairman: So let us say 650 upwards were successful? I do not know how my arithmetic squares, but the rate of migration to the Isle of Man is being greatly exceeded. It has been running at the rate of 400 to 500 a year in recent years –

Miss Collings: If I could point out, Mr Chairman, that of those applications, 187 – and these are first time applications to enter the Isle of Man – 187 were for temporary visas, so they were people who were just coming here for a specific set period of time and were intending to leave at the end of their visit.

The Chairman: Okay, and a specific set period, could that be a matter of months.

Miss Collings: There is a maximum of six months.

The Chairman: A maximum of six months. So within the overall total, that is people who have come and gone and so on.

Miss Collings: Yes.

The Chairman: So, after 12 months has elapsed, what we are saying is that there are not 700 to 800 new persons from overseas still here?

Miss Collings: No.

The Chairman: How many would you think would be still here? What would be the net effect after 12 months? This 1,497 altogether of which 700 or 800 are actually people physically coming here from outside the EU, but a number of them have gone away again. How many would you think, or can you tell us, do we know how many are here at the end of that period?

Mrs Collings: It would be difficult without going more closely into the figures to be able to give you an answer to that but we could do that and let you have the answer if you wish.

The Chairman: And as a matter of course, routine checks, I think you said earlier, are not kept: records are not kept of people leaving?

Mrs Collings: No.

The Chairman: So after the six months somebody could be here but they would be here illegally, would they not?

Mrs Collings: That is right, yes.

Mrs Moreton: If I can also qualify, within those figures for last year, there were 146 students included in that, so again they are on temporary passes until their course has finished.

The Chairman: So that would be the Business School and the Hotel School, presumably?

Mrs Moreton: That is correct, yes.

The Chairman: Yes, thank you very much. Mr Henderson.

Mr Henderson: Thank you.

You say for 2006 there were 1,400 applications, all categories, or 1,496. You then qualify that by saying 700-ish of that figure were people applying for indefinite leave or extensions –

Mrs Collings: It is people who are already here applying for further leave.

Mr Henderson: So next year, if we asked you the same sets of questions again, we would have the 700-odd that are new applications here, they could be asking for extensions

and leave to remain next year. Would that be a fair thing to assume?

Mrs Moreton: I do not think that would. As has been mentioned, some of the people that have come have been in a temporary capacity.

Mr Henderson: Right, so say we take out the 300 plus in that capacity out of the equation, nonetheless that could still mean there would be a substantial number of people next year applying for extensions then on their two years or indefinite, that could be a possibility, it might be –

Miss Collings: It is a possibility that they could be here and they could be applying for extensions, yes.

Mr Henderson: How many grants to indefinite leave did you agree to last year, say?

Miss Collings: I do not think we have got those figures.

Mrs Moreton: We have not got those figures but we could let you have those.

Mr Henderson: Right, okay, thank you very much.

The Chairman: Could I just ask before Mr Gill comes in, the UK overseas labour scheme which you apply here and the criteria you apply, how did any changes to it become operational here? Is it a function of the immigration office automatically, is there discussion between the immigration office and the DTI or are they just adopted, how are changes introduced?

Miss Collings: Do you mean changes to the issue of the actual permit?

The Chairman: To the scheme itself, the criteria or whatever.

Miss Collings: I think that would be something that would be discussed inter-departmentally to decide which of those changes would be adopted.

The Chairman: When you say ‘which would be adopted’, is there a capacity to then have discretion not to introduce changes?

Mrs Moreton: Are you talking specifically about the overseas labour scheme? I think really that question would have to be addressed to DTI because they have the responsibility to operate the scheme in the same way as the UK or in a similar way to the UK.

The Chairman: Thank you. Mr Gill.

Mr Gill: Thank you.

Either way, have I understood this correctly, that there are some hundreds of people from outside the EEA coming into the Isle of Man who, on each of those posts, could not be filled by somebody from within the EEA?

Mrs Moreton: Well that decision rests with DTI that, as

Mrs Thomas explained, the criteria that she goes through for determining whether one of those permits should be issued, immigration-wise we are concentrating on whether a permit has been issued.

The Chairman: Once approval has been given for employment you ensure immigration criteria have been –

Mrs Moreton: That is correct, Mr Chairman, yes –

The Chairman: It is not the criteria for granting the original permission. Okay. Any questions, Mrs Christian?

Mrs Christian: Mine is more of a comment, perhaps. We have been focusing, because it is your job, on the people who come to the Island from outside the EEA and stay here eventually by virtue of a leave to remain. What we did not do, Chairman, was ask when we spoke to those who dealt with the Control of Employment Act, how many people per year qualify to live here by virtue of obtaining their Isle of Man worker status, which is the comparator, if we are talking about overall immigration and I wonder if we could perhaps obtain that figure. If we are concerned about who lives here, they are the same in my view, after five years –

The Chairman: After five years, no matter what –

Mrs Christian: – as the people who come in from outside but if we are looking at overall immigration into the Isle of Man.

The Chairman: Yes, no matter what the original –

Mrs Christian: What the original country was.

The Chairman: – yes and criteria for entry would be the common factor is that after five years, me and somebody from China and so on, we are all in the same boat, are we not?

Mrs Christian: Exactly, yes. And I just wonder if we could obtain a figure from the DTI as to how many people per year gain their Isle of Man worker status.

The Chairman: Thank you Mrs Christian, we will get that information.

Mr Gill.

Mr Gill: Mr Chairman, just on the other side of the coin, do you also deal with emigration, facilitating emigration?

Mrs Moreton: No we do not specifically. If somebody approached us asking for the entry requirements to any other country, we would give them the information at the appropriate end for them to contact, but our role is purely concerned coming to the Isle of Man, rather than people going from the Isle of Man.

The Chairman: Thank you.

Well, I do not think we have any final questions, so it just remains to thank you very much indeed for helping us with our inquiries and we will be pursuing more public evidence sessions. It may be that we will ask you to come back if we need anything further clarified, but thank you very much for

your courtesy and for your attendance. You have been very helpful, thank you.

Now, ladies and gentlemen, that brings to a conclusion this public session of the Select Committee on Immigration.

There will be more public sessions. I thank everyone for their attendance and for their interest. Thank you.

The Committee sat in private at 12.43 p.m.