

House of Keys
Legislative Buildings
Douglas
Isle of Man
IM1 3PW
British Isles

Y Chiare as Feed
Oikyn Slattyssagh
Doolish
Ellan Vannin
IM1 3PW
Ny Ellanyn Goaldagh

The Hon Juan Watterson BA(Hons) FCA CMgr FCMI SHK
Speaker of the House of Keys
Loayreyder y Chiare-as-Feed

Our Ref: JW/sb/s

30th August 2017

Mr Andrew Stewart
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Dear Andrew,

Thank you for the opportunity to respond to the consultation on the work permit system.

Whether intended or not, the work permit system acts as a safety valve for immigration during periods of economic downturn, providing additional protection for "Isle of Man workers", i.e. those who have met a residential qualification. I support this purpose for work permit system.

The Isle of Man has not experienced an economic downturn for over thirty years, and it appears that the lessons learnt which led to the system being put in place in 1975 are being forgotten on the basis of the continuing Manx economic miracle.

The Department need to remain mindful of the consequences of their action in the event of a significant economic downturn for the Island.

The consequences of this do not appear to have been analysed as there is no consideration of them in the consultation paper, just the ease or otherwise of operating the system.

The fact that the consultation, in proposing significant reforms, does not consider what the system is for either means that the historical rationale still stands and they feel the proposals are consistent with them (I doubt this), or there is an attempt to change it into something else without articulating that new vision.

Whilst the Island has not experienced an economic downturn in GDP it has had a reduction in population between 2011 and 2016.

Has the Department undertaken any analysis as to how the work permit system has impacted on that population decline, for example how many work permits were not renewed, were an increased proportion declined during the period of higher unemployment etc. This will start to indicate some of the intended and unintended consequences of the way the system is currently working - a valuable source of information when designing changes. This work may have been done, but it not evident in the consultation.

On the whole, I am against exemptions which completely undermine the purpose of the system. As the consultation document states, these people are "below the radar". However, I have no problem with areas of skills shortage receiving an automatic work permit, subject to those people being 'fit and proper'. This in effect would mean them completing the "employee" part of the application form.

This would be on the proviso that should unemployment (either generally or in any sector) rise to above a limit prescribed in regulations, that sector (or all sectors) would no longer enjoy an automatic right to a work permit. This means that the system is simple and unbureaucratic in good times, and still serves a key purpose in bad times.

This brings me on to why, in the current age, the employee could not complete their section of the form online separately from the employer part? This would increase efficiency and obviate the issue of the employee passing sensitive personal data to their employer.

The consultation (at 2.8) refers to the changes in the economically active population and the dependency ratio. However, the existing matters to which the Department may give consideration actually assist a worsening of this situation. It means that the Department can filter out those relevant persons who will bring additional burden to public services. This should not be dispensed with lightly and as such, I oppose the removal of a number of the "matters to which regard may be had".

I was surprised that the Chamber of Commerce has only indicated a very narrow majority of feeling that the work permit system was a barrier to effective recruitment. If this represents the employer side of the argument, the employee side of the argument was sadly missing from the consultation document - a bias which I am concerned about.

A more radical proposal to work permits would be to award Isle of Man worker status after ten years of residence, but provide a work permit for five years. This would again provide a reasonably responsive system; reduce processing of renewals and costs.

Whilst it is not an area of responsibility of the DED, those employers that require a Disclosure and Barring Service check (police check) find this a far more cumbersome and time consuming process. My experience has been that the DHA handles its end well, but sheer volume mitigates its success. Sadly, this is largely in the hands of the UK to streamline.

The (in my view) over-simplified employer only application is to my mind a retrograde step. I have outlined my preferred alternative above which I believe would meet many of the goals that I assume the Department is trying to achieve.

Whilst the Department is placing some reliance on its ability to revoke permits, there is no evidence in the consultation of this being done. Indeed, anecdotal evidence from my time at DHA is that people have been convicted of a crime on the Island have still not had their work permit withdrawn. This is a significant reputational risk to the system.

I have touched on some aspects of the socio-economic factors above, but to deal with the specifics:

- I concur with the Department's view that the employment history of the applicant and relevant persons are not relevant to determining an application other than to provide supportive evidence and to deter false declarations. This could be requested by exception rather than routinely.
- The failure of a person to pay tax or NI is a serious matter, but I fail to see why it should be any more than a tick box supported by a potential withdrawal in future if it comes to light that this is a false declaration. There is perhaps a distinction between active and passive checks on the work permit. The DED have never undertaken their own criminal records checks on applicants, and should really state that this is a matter for employers to check. However, a tick box allows withdrawal if evidence to the contrary is brought to their attention.
- Whilst social care services are only supplied free of charge after five years, there is no way of a person knowing this when moving to the Isle of Man. Keeping this aspect alerts both the individual and the Department to a potential problem and allows the management of expectations early on. The same applies to non-contributory social security benefits. In addition, the DHSC have been notoriously poor in checking individuals entitlements before providing a service - so this is an important safeguard to the public purse.

- I concur that provided there is adequate communication between Cabinet Office and DED, there is no need to re-consider the immigration status of an applicant or any related person.
- In considering access to education, a distinction was drawn in the Select Committee on Immigration between those who did and did not require support over and above other pupils. There is a not unreasonable assumption that these children will go on to be Isle of Man workers and will contribute later in life. But this assumption is surely more tenuous for the children of work permit holders. Significant costs of supporting English as a second or other language were identified, as well as those who migrated for the more generous approach to university support (although I suspect that the latter is less relevant now). This matter could be nuanced as to whether the relevant person would require additional English language lessons, and an assurance they would be met at private cost would go a long way to assuage these concerns. I would therefore strongly oppose any reduction in the requirement for the applicant or a relevant person to speak English. This was covered at length in the select committee report, and is based around individual and public safety as well as cost.
- I would strongly oppose any reduction in the requirement for a person to make a declaration over their criminal convictions, or those of another person moving to the Island.

I have serious concerns about treating cohabiting partners in the same way as spouses or civil partners. People who have married have made a significant decision about their future together which is not the case with those who are cohabiting. I can however, see that there will be those who eschew the institution of marriage, but now that heterosexual civil partnership is an option this objection largely melts away. Such relationships are far more fluid, and there are several reasons for not supporting this proposal:

- There is more bureaucracy as people's relationship changes.
- There may be undue pressure on a partner to stay together due to employment status. This is the same for marriage but would be more acute for cohabiting couples. This would be even more disastrous in consequence if there was a financial reliance on the principle worker, or abusive relationship which may go under the radar.
- Cohabitation can be a matter of convenience which would ride a coach and horses through the principles of the work permit system. It is too easy to do and undermines the system. It is a wide open back door.
- There will be second order effects such as with jointly held public housing tenancies which may then make it unreasonably harsh not to grant a work permit which might not otherwise have been granted.
- Whilst the Department states that both cohabiters would need to declare they were no longer cohabiting, there are obvious circumstances where it is in only one party's interests to make such a declaration. This will lead to further enforcement time and cost.

Regarding fees, I would be happy to simplify the fee structure and have no strong feelings as to the level. I should however point out that some employers deduct the work permit application fee from the wages of employers. In the hospitality industry, this has been used as a tool to prevent 'flighty employees' who get here and then shop around for better wage rates, however it is a matter that the Department should consider when setting the fee level, and should consider legislating against it happening routinely to protect those on low incomes.

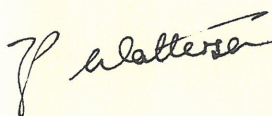
Regarding the cross reference with the points based system, I enclose a copy of my response to that consultation for the Department's information.

Finally, I oppose the idea of "flipping the system" as outlined in the document, for many of the reasons highlighted above.

Recommendations

1. The Department should clearly articulate the vision and purpose for the work permit system in moving forward with any proposals.
2. The Department should undertake some analysis of work permit data from 2011-2016 to understand the impact of the system on the reduction in population over the same period.
3. The Department should stress test the current system, and consider what the likely effects of a significant economic downturn would be on the system. This would need to include an assessment of the political as well as economic risks.
4. The system of exemptions or automatic rights to work permits should be automatically suspended if general or sector unemployment reaches a prescribed threshold.
5. The Department should consider moving the application process online.
6. The Department should consider separating the employee and employer aspects of the form so they can be completed independently.
7. If not already the case, the Department should establish a policy and procedures for revoking work permits of those who are convicted of crimes on the Island.
8. The Department should legislate to prevent employers deducting the cost of a work permit from the wages of an employee in most circumstances.

Yours sincerely



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