

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Strategic Review of Immigration

Paper No: 107/10

Date: 29th April 2010

Report of: Principal Immigration Officer

1.0 Purpose

To seek approval from Executive Council for the terms of reference for a Strategic Review of Immigration which will be coordinated by the Principal Immigration Officer.

2.0 Recommendation

That Executive Council/Honourable Members agree the proposed terms of reference for a Strategic Review of Immigration, the process for undertaking the review and timescales.

3.0 Summary of Financial Implications

None identified at present. There may be costs incurred as the result of devising and implementing a revised immigration system, however it is difficult to quantify these until the terms of reference have been agreed and work streams identified.

4.0 Background

- 4.1 The Falkland Islands Immigration Ordinance was introduced in 1999. There has been no complete review of the Ordinance since this date.
- 4.2 It was intended that the basic framework for immigration procedures set out under the Ordinance would be supplemented by detailed policies and regulation. Very little of the work needed for that to occur has been done, with many areas having never been supplemented by detailed policies or systems; the only detailed regulations having been made in relation to permanent residence permits.
- 4.3 In 2006 an Immigration Policy Working Group was formed comprising of three members of the Legislative Assembly, the Government

Secretary/Principal Immigration Officer, Collector of Customs and Immigration Officer.

- 4.4 One of the first tasks of the group was to consider a draft immigration policy statement as follows:

The Falkland Islands Immigration Policy seeks to encourage, on a gradual and controlled basis, such permanent immigration as is in the interests of the Falkland Islands, taking account of the need:

- (a) To increase the human capital of knowledge, ability and skill in the Falkland Islands;
- (b) To develop and increase enterprise and innovation in the Falkland Islands; and
- (c) To safeguard social cohesion and promote integration in the Falkland Islands

- 4.5 This draft policy statement was presented to Executive Council on 27th April 2006 as providing broad parameters for the development of an immigration points system and was a reworded version of the paragraph regarding the purpose of the issue of Permanent Resident Permits contained in the original Section 18 (5) of the Immigration Ordinance 1999.

- 4.6 An immigration points system was subsequently developed and approved by Executive Council in 2009. However it was intended that further work would be required to consider the assessment of special categories of persons e.g. investors.

- 4.7 The points system is based on a number of criteria for which points are awarded, including qualifications and finances. The points system came into effect in October 2009. Following this process, a number of issues were raised by applicants and Members of the Legislative Assembly regarding the criteria used within the points system.

- 4.8 Against the background of an absence of policies and systems to support the existing Immigration framework, and the concerns expressed by Members in connection with the points system, it is clear that there is a need to undertake a comprehensive review of immigration policy, beginning with a review of the fundamental policy statement (paragraph 4.4 above), to ensure that immigration policy meets the current and future needs of the Falkland Islands.

- 4.9 Members have therefore requested a Strategic Review of Immigration which will be coordinated by the Principal Immigration Officer.

5. Terms of Reference

5.1 It is recommended that the Strategic Review of Immigration needs to focus on facilitating the entry and stay of people who meet the needs of the Falkland Islands, and the management of risks associated with Immigration.

5.2 It is recommended that the review be completed in four separate, but complementary stages:

Stage 1: Review the fundamental immigration policy statement for the Falkland Islands.

Stage 2: Review all the component parts of the current immigration system to ensure they meet the requirements of the immigration policy.

During this phase it would be feasible to review the criteria for granting and refusing Falkland Islands Status and criteria and/or threshold contained within the points system, amendments to which could be implemented prior to the completion of the full review. Indeed, it was always anticipated that the points systems would be revised on a regular basis to reflect any changes in immigration requirements.

Stage 3: Formulate clear written policies and procedures which meet the requirements of the fundamental immigration policy statement.

Stage 4: Development /redrafting of legislation incorporating revised policies and procedures.

6.0 Process for progressing the review

6.1 It is recommended that an Immigration Review Group (IRG) be established to progress the Strategic Review of Immigration. This will comprise of:

- Gavin Short MLA. Portfolio Holder for Customs and Immigration (Chair)
- Dick Sawle MLA. Deputy Portfolio Holder for Customs and Immigration
- Gary Finchett. Principal Immigration Officer
- Ros Cheek. Principal Crown Counsel
- Robert King. Collector of Customs
- Wendy Reeves. Immigration Officer
- Head of Policy

6.2 The group will also utilise the services of and consult with other key stakeholders from time to time e.g. the GMFIDC in respect of the Economic Development Strategy which has clear links to immigration requirements.

- 6.3 It is intended that the IRG meets fortnightly initially with frequency of meetings being decided thereafter.
- 6.4 A key issue is that of resources to progress the review. Whilst the IRG will provide the policy thrust, the majority of the work required will need to be undertaken outside these meetings such as research and drafting consultation papers. The Director of Community Safety is currently identifying where these resources can be sourced from.

7.0 Timescales

- 7.1 It is anticipated that Stage 1-3 of the Review will take at least 6 months to complete and Stage 4 will take a similar amount of time, depending on the nature of the policies formulated.
- 7.2 It would be possible to implement revised components of the immigration system earlier e.g. amendments to criteria/and or thresholds under the points system (paragraph 5.2 above), however there are inherent risks in doing this as principles and criteria may be subject of further revision during the course of the review.

8.0 Financial Implications

- 8.1 None identified at present. There may be costs incurred as the result of devising and implementing a revised immigration system, however it is difficult to quantify these until the terms of reference have been agreed and work streams identified.

9. Legal Implications

- 9.1 New legislation may need introducing and existing legislation redrafting to incorporate revised policies and procedures.

10.0 Human Resources Implications

- 10.1 There are no Human Resources implications.