

Consideration document: Limited company/Limited liability company consideration

Guidelines for using this document:

Complete Qualifying questions 1-8 and shade in the boxes to confirm if you agree or disagree. If the application fails on any of the qualifying criteria, you should halt the review and call the business to explain what steps need to be taken before the application can be continued. This can be found in column 'E' 'officer notes'

Once the application has passed the qualifying questions, you should move on to the main questions, shading the appropriate 'agree/disagree' box in the spreadsheet. Where you are unsure whether the information agrees or disagrees with a specific criteria or the consideration has prompted another question, you should record this in the notes text box and then ensure you call the business to find out the answer

In order for a resident business licence to be granted, the application must agree with all factors on the consideration document.

No.	Consideration	Agree	Disagree	Officer notes	Policy option 1	Policy option 2	Policy option 3
<b>Qualifying questions</b>							
1	The applicant does not already have a business licence for this activity			Sometimes an applicant will forget they had a licence in place. If this is the case and the new activity is the same, let them know the application is withdrawn			
2	The company has been incorporated by the JFSC and a copy of the certificate of incorporation has been provided			If the applicant has not completed this, you should halt the application and request that they contact the JFSC to incorporate the company. Applicants at this stage may wish to continue as a sole trader. If this is the case, you should request that they complete the sole trader/partnership application as that contains different fields			
3	<b>One of the following applies:</b> The owner (s) of the Limited Company have an in date Entitled/Entitled for work status  OR  The ownership of the Limited company is by a group of companies that when combined are more than 60% owned by Entitled/Entitled for work residents  OR  The ownership is more than 40% owned by Registered persons and the owners have agreed that they understand the CHWL rules and that they can own the business but not work in it			Enter the social security number of the applicant (s) on Nettle to verify their residential status and expiry date If either applicant is 'Registered' or you are unable to verify they are Entitled/Entitled for work, stop the review and call the applicant to determine if they are (a) planning on working in the organisation and (b) they believe their status to be Entitled/Entitled for work. <b>Scenario 1:</b> If (a) and (b) are true ask the applicant to email customerservice@gov.je to update their residential status. Pause the application until this is completed and the applicant in question has entitled for work status. <b>Scenario 2:</b> If the applicant is Registered, but not planning on working for the organisation, gain written confirmation of this before proceeding with the review of the application. Use the email template 'ownership exceeds 40% Registered' in email templates folder <b>Scenario 3:</b> If the applicant is Registered and is planning on working in the organisation, inform them that normal policy is to grant a business licence to working owners that have 'entitled for work' status and that the application is likely to be refused. Consider if the application is offering additional high value employment to Jersey residents or offering significant economic/social benefit. If so, refer the application to Locate Jersey for consideration. If the applicant does not warrant a referral to Locate Jersey, then the application should be refused.	In addition, the Policy of the Minister is to grant Registered permissions only where it adds the greatest economic or social value, and the application received is not considered to be compelling enough to justify granting a business licence. In particular the application relates to an undertaking which provides services that are readily available from other undertakings in the Island and where there is demand for such services the expectation is that other undertakings will respond to that demand without the need to grant a business licence inclusive of a Registered permission taking into account the Policy of the States of Jersey to control migration.  - In particular the business is unable to provide information regarding the businesses track record in terms of business turnover, profitability, contribution to tax revenues etc. to demonstrate expected benefits to Jersey if operating in Jersey.	The Minister encourages new enterprises, but within the limits of policy and to grant a business licence inclusive of a person [or persons] whose status is Registered will place, or has the potential to place, <u>demands on the Island's limited resources</u> , for example, health, education, housing, transport systems.  Normal policy is to grant business licenses to individuals whose status is Entitled/Entitled for work	There is no presumption against people who are not resident or Registered from being the beneficial owners of an undertaking. However, ownership does not confer any right to work in an undertaking or to obtain a permission to work in that undertaking (and permission may be refused if there are reasonable grounds to believe this to be the case).
4	If the Business is one of the following, they must have gained the prior agreement of the authority listed in Cell E6: - Taxi Driver or taxi app - Any form of gambling - Cannabis cultivation - Producing animal food - Food supplements			<b>Taxi Driver/Taxi App</b> - Approval is first needed from the DVS and you should contact Richard Le Marquand (R.LeMarquand@gov.je) to check if DVS licence has been issued. If confirmed, continue to review the application. If no licence has been issued, you should pause the application and notify the applicant that they must first get DVS approval providing DVS contact details as necessary. Use this template: "Good morning Richard Please can you confirm if [insert name] (insert DOB) has satisfied the requirements of DVS to be a taxi driver." <b>Gambling</b> - Approval is first needed from the Jersey Gambling Commission (JCG). If this approval is not provided, you should contact 828540 and request to speak to an officer to determine if they have approved the activity. If no approval has been issued, you should pause the application and notify the applicant that they must first get JCG approval providing contact details as necessary. <b>Cannabis cultivation</b> - Business in this sector also require approval from the Health Minister. This process is significant and can take several months, so we can issue the business licence before this licence is in place. However, we must email Scott Meadows on S.Meadows@gov.je to check if the new business has begun the process. If they have, we can continue the review of the application. If they have not, we should pause the application and request that they speak with Scott before they come back to notify us if they would like to continue with the application. Once Scott is content that the business is underway with the application to the Health Minister, we can continue to review the application as businesses require a business licence to begin employing staff, open bank accounts etc. <b>Producing animal food</b> - please refer all applications to Alistair Breed, Chief Veterinary Officer. This is a highly regulated area and it's unlikely that they will meet the requirements to do this type of activity - Animal Health Waste Food Order (Jersey) 2018 as amended <a href="https://www.jerseylaw.je/laws/unofficialconsolidated/Pages/02.020.95.aspx">https://www.jerseylaw.je/laws/unofficialconsolidated/Pages/02.020.95.aspx</a> / - Animal Health (Animal By-Products) (Jersey) Order 2018 as amended <a href="https://www.jerseylaw.je/laws/revise/Pages/02.020.15.aspx">https://www.jerseylaw.je/laws/revise/Pages/02.020.15.aspx</a> <b>Retailing food supplements</b> - there is no permission they need to acquire first. However if the application is successful we place the following condition on the licence: 'that this licence is granted subject to there not being any contravention of the Medicines (Jersey) Law 1995, as amended (or any enactment made under it)'.			
5	The activity is NOT listed on table 2 of the JFSC's Sound business practice policy ("Activities that pose a potential risk to the reputation of the Island and are not within the scope of table 1")			If the activity is listed, pause the application and notify the applicant that given the activity, further advice is being sought. Refer to a Specialist Officer who will seek the advice of the relevant specialist government department to support decision making. This will often require some digging to find. Save the advice once received and keep management updated on decision making.	Each application to commence a resident business and / or employ staff whose status is or would be Registered or Licensed is looked at on its own merits based on the criteria we have regard to: a. Preserving and maximising the benefits of Jersey's resources b. Promoting a balanced and prosperous economy c. <u>Protecting the integrity and reputation of Jersey in commercial and financial matters</u> d. Any relevant policies of the States of Jersey e. <u>Whether such a grant would be in the public interest; and</u>		
6	the business has correctly ticked if it is to be regulated by the Jersey financial Services (listed on table 1 of the JFSC's sound business practice policy)			If the applicant has ticked 'no' but you feel that the nature appears in table 1 of the policy, you should contact the JFSC companies registry on 822030 for confirmation of whether the companies proposed activity in the 'nature of undertaking' should be regulated. If so, request that the JFSC contact the applicant to discuss further. Pause the application until confirmation has been received from the JFSC that either (a) the activity should not be regulated OR (b) the applicant has gained regulatory approval from them.			
7	The business either: a) has no agency or franchise agreements in place with any non-resident persons or businesses  OR  b) has an agreement in place but has provided written agreement that the non-resident agency/franchisor has agreed and understood that there will be certain agreement/clauses of the agreement that could not be invoked without the prior permission of the Minister			In agency/franchise agreements (e.g. Sandpiper runs Costa & Moss Bros) there are often clauses relating to changes of ownership or transferring of staff from non-local businesses to the Jersey franchise. However, it is essential that if the Jersey resident business has one of these in place with a non-local company, that the non-local company understands that the CHWL trumps this agreement and permission from the Minister is required for changes of ownership that exceed 40% non-local or to engage any staff. It is essential to get the written understanding of this from the applicant as this is important for future correspondence and for them to build in to any franchise agreements.  If the business does not provide agreement/understanding of this, this would constitute grounds for refusing the business licence			
8	The business is NOT requesting Registered or Licensed staff			If the business is requesting Registered/Licensed staff, you should pause the application and consider any additional information provided against the Registered or Licensed permission consideration template. Locate Jersey and Digital Jersey often support new business applications requiring Registered/Licensed permissions, so if the application has not come from one of these partners, you should contact them to see if they would support the applicant/be willing to provide a view against their framework. If it is unlikely that the requested Registered/Licensed permissions would be granted, you should discuss the importance of this with the applicant before continuing with the review as they may decide not to continue with the application if they are not permitted the additional staff member	In addition, the Policy of the Minister is to grant Registered permissions only where it adds the greatest economic or social value, and the application received is not considered to be compelling enough to justify granting a business licence. In particular the application relates to an undertaking which provides services that are readily available from other undertakings in the Island and where there is demand for such services the expectation is that other undertakings will respond to that demand without the need to grant a business licence inclusive of a Registered permission taking into account the Policy of the States of Jersey to control migration.  - In particular the business is unable to provide information regarding the businesses track record in terms of business turnover, profitability, contribution to tax revenues etc. to demonstrate expected benefits to Jersey if operating in Jersey.	The Minister encourages new enterprises, but within the limits of policy and to grant a business licence inclusive of a person [or persons] whose status is Registered will place, or has the potential to place, <u>demands on the Island's limited resources</u> , for example, health, education, housing, transport systems.  Normal policy is to grant business licenses to individuals whose status is Entitled/Entitled for work	There is no presumption against people who are not resident or Registered from being the beneficial owners of an undertaking. However, ownership does not confer any right to work in an undertaking or to obtain a permission to work in that undertaking (and permission may be refused if there are reasonable grounds to believe this to be the case).
<b>Main questions</b>							
1	Check the form has been filled out fully and correctly			If any sections have been missed, contact the applicant to fill in over the phone. If the signature has been missed, the applicant will need to come in to complete this	<b>If info not received within 4 weeks of request</b> I write further to your application to carry on a X undertaking in the island/to permit additional Registered/Licensed staff to be engaged by Y.I wrote to/mailed you requesting additional information however I can see from our records that no response has been received to date. I have therefore withdrawn the application. Should you wish to operate an undertaking in the future, information is available on <a href="http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx">http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx</a> on the setting up a business page where you can find information on how to apply.		
2	check the nature of the undertaking to ensure that it makes reasonable sense			A business licence can be issued in accordance with the information submitted, so we do not need to worry too much about what it says for the nature in the application, we can just place in what the applicant said. However, there are word limits on CRM and there are occasions where the applicant wording does not make sense, so if the nature is to be something different from what the applicant wrote, we should call them to confirm they agree any proposed new wording	<b>If info not received within 4 weeks of request</b> I write further to your application to carry on a X undertaking in the island/to permit additional Registered/Licensed staff to be engaged by Y.I wrote to/mailed you requesting additional information however I can see from our records that no response has been received to date. I have therefore withdrawn the application. Should you wish to operate an undertaking in the future, information is available on <a href="http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx">http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx</a> on the setting up a business page where you can find information on how to apply.		
3	If the activity involves activity with vulnerable adults or children ensure the applicant has provided a basic DBS within the last 6 months for each of the owners			A basic DBS check should be requested for all business owners (even if they are not directly working in the business). This is to ensure that the controllers of a business working with children/vulnerable adults do not have relevant unspent convictions.	Each application to commence a resident business and / or employ staff whose status is or would be Registered or Licensed is looked at on its own merits based on the criteria we have regard to: a. Preserving and maximising the benefits of Jersey's resources b. Promoting a balanced and prosperous economy c. <u>Protecting the integrity and reputation of Jersey in commercial and financial matters</u> d. Any relevant policies of the States of Jersey e. <u>Whether such a grant would be in the public interest; and</u>	<b>If info not received within 4 weeks of request</b> I write further to your application to carry on a X undertaking in the island/to permit additional Registered/Licensed staff to be engaged by Y.I wrote to/mailed you requesting additional information however I can see from our records that no response has been received to date. I have therefore withdrawn the application. Should you wish to operate an undertaking in the future, information is available on <a href="http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx">http://www.gov.je/working/startbusiness/pages/settingupbusiness.aspx</a> on the setting up a business page where you can find information on how to apply.	

Issue licence provided you have selected 'agree' for all qualifying and main questions