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Dear Ms McKenzie

CONSULTATION: GAMBLING ACT 2005 (LICENSING AUTHORITY POLICY STATEMENT) (ENGLAND AND WALES) REGULATIONS

This response is made on behalf of Leeds City Council to the consultation on draft regulations regarding a licensing authority's policy statement made under the Gambling Act 2005.

Leeds City Council welcomes the overall approach of Government in seeking to provide transparency and consistency balanced against the need to reflect local circumstances and without being unduly burdensome on the parties. This response offers what we hope are constructive suggestions to help achieve that aim.

The first and most crucial recommendation that Leeds would make is that it is imperative that DCMS consider the timescales for the provision of information to licensing authorities, the time required for consultation, the additional time required for formal approval of the policy statement and the implications of these regulations.

According to paragraph 4.7 of the consultation document the licensing authority will need to publish a notice of the intention to publish the statement of policy no less than two weeks before the statement is to be published and specify the date on which it is to be published and the date on which it will come into effect. Further the consultation suggests that the policy must be available for inspection for a period of one month before it takes effect.

The effect of these proposals is to insert at least a six week period between the settling of the final version of the policy and the formal approval of the full Council. This is without taking into account the possibility of needing the document to be considered by the relevant

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Scrutiny Board or other elected members as appropriate. It is difficult to see what the prescribing of such periods is intended to achieve.

Before the matter can be referred to full Council for approval the consultation must have been undertaken and must have been completed. The chance for the trade and the public to influence the statement is at that stage and the publication of the document one month before formal Council approval and the policy taking effect adds nothing to the process.

There are no provisions within regulation 7 dealing with consultation with the public and the trade as required under the primary legislation. It is not clear whether the Government intends to deal with how consultation is undertaken. If this is intended then DCMS is referred to draft regulations issued by DEFRA in respect of consultation on dog control orders under the Clean Neighborhoods and Environment Act 2005. Those draft regulations specify the extent and nature of consultation that should be undertaken e.g. the publication of consultation details on the website and the display of notice of consultation at the principal office. If the purpose of publicising the documents is to allow input from the trade and public then something similar to the DEFRA model either in guidance or regulations (if necessary) may be more appropriate.

Under the proposed timetable the policy statement must be approved by December 2006. This means it must be completed, consulted upon and amended before being considered by Members by as early as mid October, before being formally approved (since most authorities do not schedule Council meetings late in December). If we receive the Gambling Commission Guidance to Local Authorities in May 2006, the consultation period is likely to commence in July 2006 and be concluded at the end of August/early September. Not only is this less than the recommended 12 weeks but it will also be during the summer period and concerns were raised by residents over a similar timetable in respect of our policy under the Licensing Act 2003.

If there is any delay in issuing the Guidance then the regulations will operate only to cut down further the consultation period. This is not in the interests of any affected party.

We would also point out that under regulation 7 (2) (d) the regulations require the notice to specify the internet address where the statement will be published and the address of the premises where the statement may be inspected in accordance with regulation 9 (b). Unfortunately these regulations do not include a regulation 9. The reference should in fact read 8 (b).

Regulation 8 then goes on to deal with the publication of a statement or revision and requires the statement to be published during the period of one month before the date specified in accordance with regulation 8 (2) (c). There is in fact no regulation 8 (2) (c), an error that must be corrected before the regulations are confirmed.

We consider that the current regulations may not best achieve the objectives set out in paragraph 4.4 and 4.5 of the consultation document. The stated aim in setting out the list of matters in regulation 5 is to ensure that the licensing authority's approach to certain fundamental functions is readily identifiable to businesses and individuals concerned with premises licensing. Given the draft guidance we have seen our policy statements are likely to be at very high level and absent any significant detail which will assist residents and the trade. For example regulation 5 requires at sub paragraph (a) for the statement to set out the principles to be applied in designating the body competent to advise on the protection of children from harm. It would be more in keeping with the government's objectives to bring into force section 157 (h) of the Act allowing licensing authorities to designate at a very early stage the appropriate body in their area. This would give a much greater degree of certainty.

In particular Leeds endorses the LACORS (Local Authorities Coordinators of Regulatory Services) comments set out in relation to regulation 5 (b). Local authorities simply cannot provide a clear cut statement as to who is an interested party as each case must be treated on its own merit. Experience of the Licensing Act 2003 has shown that even applying a guideline in terms of distance for example is almost impossible. Most local authorities will therefore simply adopt a very vague statement that they will treat each case on its own merit which will be of no assistance to either the public or the trade.

Finally, Leeds City Council endorses the comments made by LACORS as to the possible effect of regulations 4 and 5 on the readability and usefulness of the statement of policy.

Given these comments we wonder whether there is in reality any benefit in specifying the four matters currently set out in Regulation 5.

If you require any further information please do not hesitate to contact me.

Yours sincerely

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Regulatory and Enforcement