

Environmental Health Services  
Scarborough Borough Council  
Town Hall  
St Nicholas Street  
Scarborough  
YO11 2HG



Contact: Licensing Services  
Tel: 01723 383621  
Fax: 01723 365280  
e-mail:licensing.services@scarborough.gov.u  
Web site: www.scarborough.gov.u

## Scarborough Borough Council

Our Ref: UF

Ms Jill McKenzie  
Gambling and National Lottery Licensing Division  
Department for Culture, Media and Sport  
2-4 Cockspur Street  
LONDON  
SW1Y 5DH

25 January 2006

Dear Ms McKenzie

### Re: Gambling Consultation Response

The consultation document discusses 2 possible options for consideration. The first option would involve prescribing the exact form of licensing policy statements, including the methods for preparing and publishing the statement and the circumstances in which an authority must review or revise statements. There would be little or no discretion for the licensing authority to give greater space or emphasis to those functions that were most relevant in its area, so the ability of the authority to tailor the statement to suit local circumstances would be constrained.

The second option is to give full discretion to licensing authorities as to the form of the Licensing Policy, including the methods for preparing, reviewing, revising and publishing, the licensing policy statements. Essentially this option would involve the Government taking no action in making Regulations. The effect of this would be complete discretion for licensing authorities to determine the form and content and the preparation, review and publication of the licensing policy statement.

Neither of these options is particularly attractive. The first option does not allow the Licensing Authority to tailor the policy to meet local needs and circumstances. The second option would result in a wide variety of policy documents; transparency and consistency would be sacrificed as a result and regional and national operators might legitimately be able to criticise this lack of consistency.

*The preferred approach is to impose statutory minimum requirements on all licensing authorities in relation to the policy statements. This will provide the necessary transparency, and to some extent, consistency for those persons wishing to apply for a licence or permission under the Act. Additionally, it is considered that this option does not impose unnecessary financial or administrative burdens on licensing authorities or the gambling industry.*



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The Consultation document asks the following additional questions:

Q1 Is there anything else you think ought to be included in the licensing policy statement regulations and why?

*One area of concern is in relation to Regulation 5(b) that states that the Licensing Authority have to set down the principles they intend to apply in determination of whether a person is an interested party or not. The Act states that they must live "sufficiently close to the premises to be likely to be affected". The Licensing Act 2003 is similarly vague in relation to an interested person living in the vicinity of a premises". The Borough Council is of the view that this is an area upon which legal challenges are not unlikely. Is the rationale behind setting down these principles to avoid such challenges? If the policy remains "unchallenged" will this prevent any legal challenges being made in individual cases?*

Section 158 of the Gambling Act 2005 states that an interested party may include any person who has business interests that might be affected by the authorised activities. In respect of Regulation 5 it is suggested that the guidance on Licensing Policies should give adequate advice on dealing with "commercial interests" as clearly there may be a significant number of such representations.

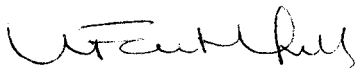
Q2 Is there anything that we intend to include in the licensing policy regulations that you disagree with and why?

*The procedure set down for advertising publication of a policy statement is straightforward although why such a complex procedure is necessary, given the level of consultation, is unclear. There is some confusion regarding Regulation 8 although it is assumed that the reference to Regulation 8(2)(c) should read Regulation 7 (2)(c).*

Q3 Are there any other comments that you would like to make?

*Only a request that further draft guidance is available for consultation at as early a stage as possible to enable the appropriate procedures and local guidance for applicants to be prepared well in advance of the implementation of the new regime.*

Yours sincerely



**Una Faithfull (Mrs)**  
**Licensing Manager**