EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (LICENSING AUTHORITY POLICY STATEMENT) (ENGLAND AND WALES) REGULATIONS 2006

2006 No.636

And

THE GAMBLING ACT 2005 (LICENSING AUTHORITY POLICY STATEMENT) (FIRST APPOINTED DAY) ORDER 2006

2006 No. 637

1. This explanatory memorandum has been prepared by the Department for Culture. Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Regulations set out the form of licensing policy statements and the procedures to be followed in relation to preparation, revision and publication of the statements.

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments.

3.1 None

4. Legislative Background

4.1 The Gambling Act 2005 received Royal Assent on 7 April 2005. The Act gives new responsibility to licensing authorities to undertake a number of licensing and regulatory functions in relation to gambling premises. In all of their activities, authorities will be guided by the three licensing objectives set out in section 1 of the Act:

- To prevent gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and vulnerable persons from being harmed or exploited by gambling.

4.2 In order to assist authorities in undertaking these new responsibilities, and to provide transparency for those wishing to apply to an authority for a permission under the Act, section 349 requires all authorities to prepare and publish a licensing policy statement.

4.3 The licensing policy statement will last for a maximum of three years, but can be reviewed and revised by the authority at any time. It must set out the principles the authority proposes to apply in exercising its functions under the Act during the three-year period to which the policy applies. The statement must be produced following widespread consultation with those bodies and persons set out in subsection (3) of section 349. The Secretary of State, or Scottish Ministers in Scotland, has the power to make regulations about the form of statements, the procedure to be followed in relation to them and their publication. The Gambling Act 2005 (Licensing Authority Policy Statement) (First Appointed Day) Order 2006 determines the first day of the initial three-year period.

5. Extent

5.1 The instruments apply to Great Britain.

6. European Convention on Human Rights

6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 In assessing the most suitable approach to making the Regulations, the Department took account of the need to balance the needs of the gambling industry and other interested persons (i.e. consistency and transparency) against the needs of licensing authorities (i.e. to be able to take account of local circumstances). The Department was also keen to avoid imposing unnecessary financial or administrative burdens on authorities or the industry.

7.2 As such, the options available to the Department were considered against the following policy objective: *to provide transparency, and to some extent, consistency, for persons wishing to apply for a licence or permission under the Act, whilst minimising the imposition of unnecessary financial or administrative burdens on licensing authorities and the industry and enabling local circumstances to be reflected in licensing policy statements.*

7.3 The Regulations impose minimum statutory requirements on all licensing authorities (in England and Wales) in relation to licensing policy statements. The Department is satisfied that this approach meets the objective as set out above, by providing 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 the Regulations do not impose unnecessary financial or administrative burdens on licensing authorities or the gambling industry.

7.4 Section 349 of the Gambling Act requires licensing authorities to set out the principles that they propose to apply in exercising their functions under the Act. The content of the policy statement is therefore determined by the Act itself. The Department has, however, determined that it is appropriate for the Regulations to prescribe a number of matters that must be dealt with separately in the licensing policy statement. This will ensure that the licensing authorities' approach to certain fundamental functions is readily identifiable to businesses and individuals who are concerned with premises licensing. In addition, it gives minimum requirements to

authorities about how policy statements are to be approached and the level of detail that is required in relation to particular matters.

7.5 The Regulations require authorities to set out their approach and the principles they intend to apply with regard to the following in all licensing policy statements:

- The designation of a body competent to advise the licensing authority about the protection of children from harm as a responsible authority;
- Interested parties;
- Information exchange; and
- Inspection and prosecution.

Licensing policy statements must also contain an introductory section setting out the area over which the licensing authority will exercise its functions and a list of those persons/organisations consulted in producing the statement. Where a licensing policy statement is revised, it too must set out the persons consulted and, to the extent that it deals with the matters listed above, contain a separate section dealing with the authority's approach to those matters.

7.6 The Department has endeavoured to avoid imposing unnecessary administrative or financial burdens on authorities regarding the preparation, revision and publication of licensing policy statements. However, we consider that there are some benefits in ensuring that all licensing authorities deal with important issues in a similar manner. To this end, the Regulations are not unnecessarily prescriptive on authorities in terms of preparing the statement or in prescribing the circumstances in which a review or revision must be carried out. However, we do consider it appropriate for the Regulations to stipulate the following:

7.7 Before publishing a licensing statement or subsequent revision, the Regulations require authorities to publish a notice which:
(a) advertises the publication of the statement or revision (this must be done no later than the day on which the statement or revision is published);
(b) specifies the date on which the statement or revision is to be published;
(c) specifies the date on which the statement or revision will come into effect; and
(d) specifies the internet address where the statement or revision will be published and the address of the premises at which it may be inspected;
(e) appears on the authority's website and in/on one or more of the following places:

- A local newspaper circulating in the area covered by the statement;
- A local newsletter, circular, or similar document circulating in the area covered by the statement;
- A public notice board on or near the principal office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

7.8 With regard to publication, the Regulations stipulate that the licensing policy statement or any subsequent revision must be published on the authority's website and be made available for inspection by members of the public at the address stated in the notice. The statement or revision must be published at least 4 weeks before it takes effect.

7.9 The Department does not consider there to be any significant burden on licensing authorities in requiring the matters listed to be included in the licensing policy statement; authorities will need to address their approach to the application of their functions under the Act, and the Regulations go no further than to ensure that certain aspects of their approach are given particular prominence. In addition, the Department does not consider there to be a significant burden imposed on authorities as regards the preparation, review, revision and publication of the policy. Indeed, the Regulations as they are currently drafted stipulate only a small number of minimum requirements that authorities must adhere to.

7.10 The Department does not consider there to be any significant costs to the gambling industry in making these Regulations. Indeed, we think it is likely to reduce costs likely to be borne by the industry and other individuals if the Regulations were not made. The industry will be assured that key matters relating to each authority's approach to the licensing of gambling premises in their area will be set out in a consistent manner in licensing policy statements. The Department recognises, however, that any degree of discretion afforded to licensing authorities in this regard will mean that the actual content of the policy statements is likely to differ considerably between authorities to accommodate local circumstances. Whilst we recognise that this may increase the time and work involved for the gambling industry, we believe this approach to be proportionate and justified.

7.11 In developing the Regulations, the Government informally consulted the Department's Premises Licensing Working Group and Transition and Training Group consisting of representatives from local government organisations, the Gambling Commission, the Magistrates' Association, the Scottish Executive, Business in Sport and Leisure and others.

7.12 Additionally, the Department issued a Consultation Paper for formal consultation on 24 November 2005. The consultation exercise ended on 24 February 2006. The Department received 34 responses to the consultation exercise, of which 10 were fully supportive of the Department's proposals, 14 were largely supportive, and 10 did not support the Department's proposals, stating either that the making of Regulations is unnecessary or that the Regulations do not go far enough in limiting licensing authority discretion. The Department has prepared a document consisting of a summary of the consultation responses and the Department's response to be published on the website in due course.

7.13 Following the public consultation exercise, the Department gave consideration to the responses and made two amendments to the draft Regulations relating to the advertisement and publication of licensing policy statements. Further detail on the outcome of the consultation exercise is contained within the RIA.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9.1 Peter Gartenberg at the Department for Culture, Media and Sport [Tel: 020 7211 6954 or e-mail Peter.Gartenberg@culture.gsi.gov.uk] can answer any queries regarding the instrument.

Final Regulatory Impact Assessment

1. Title of Proposal

1.1 Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

2. Purpose and Intended Effect

(i) The Objective

2.1 Section 349 of the Gambling Act 2005 (the Act) gives the Secretary of State the power to make Regulations relating to the Licensing Policy Statement to be published by licensing authorities. The Regulations may prescribe:

a) The form of statements;
b) The procedure to be followed in relation to the preparation, review or revision of statements; and
c) The publication of statements.

2.2 The objective of the proposal is *to provide transparency, and to some extent, consistency, for persons wishing to apply for a licence or permission under the Act, whilst minimising the imposition of unnecessary financial or administrative burdens on licensing authorities and the industry and enabling local circumstances to be reflected in licensing policy statements.*

2.3 It should be noted that these Regulations do not apply in Scotland, where Scottish Ministers may make separate Regulations regarding licensing policy statements.

(ii) The Background

2.4 The Gambling Act 2005 received Royal Assent on 7 April 2005. The Act gives new responsibility to licensing authorities to undertake a number of licensing and regulatory functions in relation to gambling premises. In all of their activities, authorities will be guided by the three licensing objectives set out in section 1 of the Act:

- To prevent gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and vulnerable persons from being harmed or exploited by gambling.

2.5 In order to assist authorities in undertaking these new responsibilities, and to provide transparency for those wishing to apply to an authority for a permission under the Act, section 349 requires all authorities to prepare and publish a licensing policy statement.

2.6 The licensing policy statement will last for a maximum of three years, but can be reviewed and revised by the authority at any time. It must set out the principles the authority proposes to apply in exercising its functions under the Act during the three-year period to which the policy applies. The statement must be produced following widespread consultation with those bodies and persons set out in subsection (3) of section 349. The Secretary of State, or Scottish Ministers in Scotland, has the power to make regulations about the form of statements, the

procedure to be followed in relation to them and their publication. An order of the Secretary of State will determine the first day of the initial three-year period.

3. Consultation

3.1 In developing the proposal, the Government informally consulted the Department's Premises Licensing Working Group and Transition and Training Group consisting of representatives from local government organisations, the Gambling Commission, the Magistrates' Association, the Scottish Executive, Business in Sport and Leisure and others[1].

3.2 Additionally, the Department issued a Consultation Paper for formal consultation on 24 November 2005. The consultation exercise ended on 24 February 2006 and changes resulting from this exercise are documented in this final RIA.

4. Options

4.1 The Department considered a number of options regarding the Regulations in order to meet the objective set out in paragraph 2.2. These options were:

- Prescribing the exact form of the statements, including the methods for preparing, reviewing, revising and publishing the licensing policy statements;
- Doing nothing. This would mean licensing authorities would have complete discretion over the licensing policy statements;
- Imposing minimum statutory requirements on all licensing authorities (in England and Wales);
- Introducing the preferred option with amendments emerging from the consultation exercise.

Option 1 – Make comprehensive Regulations that stipulate the exact form and content, including the methods for preparing, reviewing, revising and publishing the licensing policy statements

4.2 This option would involve prescribing the exact form of licensing policy statements, as well as 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 and therefore little or no ability for the authority to take local circumstances, particular to its area, into account when producing the statement. In particular, the licensing authority would only be able to address matters that were included on the form, and would not be able to publish material on additional matters that might assist applicants and individuals.

4.3 Taking this approach goes against the very reasons why the Government determined that licensing authorities should be given responsibility for the licensing of gambling premises. The Gambling Review Report, prepared by the Gambling Review Body chaired by Sir Alan Budd, referred to the Government's Liquor Licensing White Paper, which stated that "*there are…compelling reasons in favour of giving the local authority (at district level) the responsibilities…(1) accountability: we strongly believe that the licensing authority should be*

[1] The **Premises Licensing Working Group** consists of representatives from the following organisations: Local Government Association, LACORS, Institute of Licensing, Association of London Government, COSLA, Welsh LGA, Gambling Commission, Scottish Executive, Business in Sport and Leisure, Welsh Assembly, Magistrates' Association, Justices Clerks' Society, ODPM, Association of Chief Police Officers, Society Of Local Authority Chief Executives. The **Transition and Training Group** consists of representatives from: LGA, LACORS, IoL, ALG, COSLA, WLGA, Gambling Commission, Scottish Executive, BiSL, Magistrates' Association, ODPM.

accountable to local residents whose lives are fundamentally affected by the decisions taken; (2) accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors. We consider that the same arguments apply to gambling premises."[2]

4.4 The Government supported the Review Body's recommendation that licensing authorities should be responsible for licensing all gambling premises[3]. This recommendation was accepted on the basis that authorities are also best placed to integrate policy on premises licensing with wider community strategies such as crime prevention and planning. Adopting option 1 could therefore prevent authorities from effectively integrating premises licensing policy with other significant local initiatives.

4.5 If the Regulations were drafted to take a particularly prescriptive approach to the licensing policy statements, it is likely that this would impose a number of unnecessary financial or administrative burdens on authorities. If the Regulations included requirements as to the form of the entire statement, it is likely that this would result in unnecessary financial or administrative burdens on authorities. For example, licensing authorities might want to publish matters in the statement that go beyond the basic requirements, such as a statement of principles that it proposes to apply in relation to applications for certain permits, as it could save the cost and administrative burden of producing separate documents. A fully prescribed form of the statement would not leave space for such matters.

4.6 Whilst this option fails to fully deliver the latter part of the objective of the Regulations (minimising the imposition of unnecessary financial and administrative burdens on licensing authorities), it does in part meet the former part of the objective (to provide transparency, and to some extent, consistency, for persons wishing to apply for a licence or permission under the Act). Businesses with branches across England and Wales would, for example, have far less information to digest regarding local differences between authorities, resulting in both cost and time savings with regard to applications for premises licences and other permissions. On the other hand, this benefit to industry and individuals in general might be negated if licensing authorities were unable to include additional information that they think could be helpful.

4.7 The costs and benefits of this option are set out in paragraphs 5.2, 5.7 and 5.8 of this document. There is also a table summarising the costs and benefits of all the options at **Fig.1**.

4.8 The Department does not consider that the benefit to the gambling industry in adopting this option outweighs the burdens imposed on licensing authorities. Additionally, we feel that taking forward option 1 would be contrary to the Government's rationale for transferring responsibility for licensing gambling premises to licensing authorities.

Option 2: Do not make the Regulations, thereby giving full discretion to licensing authorities as to the form and content, including the methods for preparing, reviewing, revising and publishing, the licensing policy statements

4.9 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.

[2] The Gambling Review Report, July 2001, page 99.
[3] A safe bet for success-modernising Britain's gambling laws, March 2002, page 9.

4.10 This approach does not fully meet the objective of providing transparency, and consistency, to persons wishing to apply to a licensing authority for a permission under the Act. Indeed, adopting this option would impose significant burdens on the gambling industry. This option is likely to result in businesses and individuals taking much longer to read and understand the various policy statements, as the information could be set out in very different ways, with varying prominence given to particular licensing authority functions. This may result in the need for further discussion with licensing authorities in order to clarify the authority's approach to various aspects of licensing or regulation, such as inspection.

4.11 In addition, the Government does not consider this option to be particularly beneficial to licensing authorities themselves. Some authorities have indicated that without Regulations prescribing, to some degree, the appropriate way to approach the licensing policy statement, they will have some difficulty in determining what to include and the prominence that should be given to particular functions. This is because the licensing and regulation of gambling premises, and indeed the content of the Gambling Act 2005, is still very new to authorities.

4.12 Of course, some authorities would prefer to draft their own licensing policy statements, free from any Government intervention. For those authorities, this option provides a number of benefits, however these benefits are realised at the expense of transparency and consistency for the gambling industry for the reasons set out in paragraph 4.10 above.

4.13 The costs and benefits of this option are set out in paragraphs 5.3, 5.9 and 5.10 of this document. There is also a table summarising the costs and benefits of all the options at **Fig.1**.

4.14 In considering this option, the Department concludes that any benefits to licensing authorities would fail to outweigh the significant burdens imposed on the gambling industry.

Option 3: Imposing minimum statutory requirements on all licensing authorities (in England and Wales)

4.15 Under option 3, minimum statutory requirements would be imposed on all licensing authorities in England and Wales. Under this option it would become a legal requirement for licensing authorities to adhere to the requirements below when preparing, reviewing, revising and publishing the statement. In addition, licensing authorities would need to have regard to the relevant guidance issued by the Gambling Commission under section 25 of the Act. It is anticipated that the guidance will contain further instructions regarding the information to be contained in each section and/or the processes to follow. [4]

4.16 When considering the scope and content of the Regulations, the Department has taken steps to ensure that both the Regulations made by the Secretary of State under section 349 and the guidance issued by the Gambling Commission under section 25 of the Act complement each other. To this end, the Department has given due consideration to this interaction to aid consistency of approach and to ensure that sufficient information is available to authorities and other interested persons either through the Regulations or via the guidance.

4.17 Section 349 of the Gambling Act requires licensing authorities to set out the principles that they propose to apply in exercising their functions under the Act. The content of the policy statement is therefore determined by the Act itself. The Department has, however, determined that it will be appropriate for the regulations to prescribe a number of matters that must be dealt with separately in the licensing policy statement. This approach will ensure that the

[4] Licensing authorities may depart from the Gambling Commission guidance if there is reason to do so, but should be prepared to justify their reasons.

licensing authorities' approach to certain fundamental functions is readily identifiable to businesses and individuals who are concerned with premises licensing. In addition, it gives minimum requirements to authorities about how policy statements are to be approached and the level of detail that is required in relation to particular matters.

4.18 In summary, the Regulations require authorities to set out their approach and the principles they intend to apply with regard to the following in separate sections in all licensing policy statements:

- The designation of a body competent to advise the licensing authority about the protection of children from harm as a responsible authority[5];
- Interested parties;
- Information exchange; and
- Inspection and prosecution.

Licensing policy statements must also contain an introductory section setting out the area over which the licensing authority will exercise its functions and a list of those persons/organisations consulted in producing the statement. Where a licensing policy statement is revised, it too must set out the persons consulted and, to the extent that it deals with the matters listed above, contain a separate section dealing with the authority's approach to those matters.

The Gambling Commission guidance will contain further details regarding the information to be contained in each section and will set out further suggestions regarding the contents of the statements. [6]

4.19 The Department is keen to avoid imposing unnecessary administrative or financial burdens on authorities regarding the preparation, revision and publication of licensing policy statements. However, we are mindful that there are some benefits in ensuring that all licensing authorities deal with important issues in a similar manner. To this end, the Regulations are not unnecessarily prescriptive on authorities in terms of preparing the statement or in prescribing the circumstances in which a review or revision must be carried out. However, we do consider it appropriate for the Regulations to stipulate the following:

4.20 Before publishing a licensing statement or subsequent revision, the Regulations require authorities to:

(a) publish a notice of the intention to publish a statement or revision (this must be done no less than two weeks before the statement or revision is to be published);
(b) specify the date on which the statement or revision is to be published;
(c) specify the date on which the statement or revision will come into effect;
(d) specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected;
(e) publish the notice on the authority's website and in/on one or more of the following places:

- A local newspaper circulating in the area covered by the statement;
- A local newsletter, circular, or similar document circulating in the area covered by the statement;

[5] Section 157(h) gives licensing authorities discretion to determine the most appropriate body in their area to perform this function and to designate that body in writing.
[6] Licensing authorities must have regard to the guidance from the Gambling Commission.

- A public notice board on or near the principal office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

4.21 With regard to publication, the Regulations stipulate that the licensing policy statement or any subsequent revision must be published on the authority's website and be made available for inspection by members of the public in the principal office of the authority or a public library in the area covered by the statement. The statement or revision must be published at least one month before it takes effect. The Gambling Commission guidance is likely to contain further information about the circumstances that may give rise to authorities considering whether it is appropriate or necessary to review or revise the licensing policy statement.

4.22 The Department does not consider there to be any significant burden on licensing authorities in requiring the matters listed to be included in the licensing policy statement; authorities will need to address their approach to the application of their functions under the Act, and the Regulations go no further than to ensure that certain aspects of their approach are given particular prominence. In addition, the Department does not consider there to be a significant burden imposed on authorities as regards the preparation, review, revision and publication of the policy. Indeed, the Regulations as they are currently drafted stipulate only a small number of minimum requirements that authorities must adhere to.

4.23 The Department does not consider there to be any significant costs to the gambling industry in proposing this option. Indeed, we think it is likely to reduce costs likely to be borne by the industry and other individuals if these regulations were not made. The industry will be assured that key matters relating to each authority's approach to the licensing of gambling premises in their area will be set out in a consistent manner in licensing policy statements. The Department recognises, however, that any degree of discretion afforded to licensing authorities in this regard will mean that the actual content of the policy statements is likely to differ considerably between authorities to accommodate local circumstances. Whilst we recognise that this may increase the time and work involved for the gambling industry, we believe this approach to be proportionate and justified.

4.24 The costs and benefits of this option are set out in paragraphs 5.4, 5.5 and 5.11 of this document. There is also a table summarising the costs and benefits of all the options at **Fig.1**.

Option 4: Introduce the preferred option with amendments emerging from the public consultation

4.25 This option involves making the Regulations as set out under option 3 with amendments arising from the public consultation exercise. **This is now the Department's preferred option**.

4.26 The Department received 34 consultation responses to the Consultation Exercise, which ran from 24 November 2005 to 24 February 2006. The majority of responses were from local authority representative groups and individual licensing authorities, however responses were received from the gambling industry, social responsibility organisations and the Association of Chief Police Officers (ACPO). The consultation responses were generally supportive of the Department's approach as set out in the Consultation Paper and welcomed the discretion afforded to licensing authorities through the imposition of minimum requirements. However, some concerns were raised in relation to the following:

1) The information to be included in relation to the authority's definition of interested parties;

2) The information to be included in relation to the sections on information exchange and on inspection and prosecution;
3) The methods proposed for advertising and publishing licensing policy statements; and
4) The requirement for licensing authorities to advertise the publication of licensing policy statements two weeks in advance of publication.

Some responses also questioned the need for the Department to make Regulations regarding licensing policy statements, recommending that the policy aims could be achieved through the Guidance produced by the Gambling Commission and the licensing policy framework and template document currently being produced by LACORS.

4.27 In regard to 1), consultation responses received indicated that authorities are concerned that setting out the factors they are likely to take into account when determining who is an interested party may lead to legal challenge, whilst on the other hand, simply stating that each case will be considered on its merits adds nothing to the policy statement. Whilst the Department agrees that each representation will indeed need to be considered on its merits, we think it beneficial for those persons who may make representations to be aware of the types of issues the authority may look at when determining whether a person is an interested party.

4.28 Furthermore, since s.349(1)(a) of the Act requires authorities to '*prepare a statement of the principles they propose to apply in exercising their functions under this* Act', a function of which is the consideration of interested parties, the Department does not consider that the Regulations, in requiring this issue to be dealt with expressly in the statement, is asking any more from authorities than they are already required to give due consideration to. As such, the Department is satisfied that this should remain a statutory requirement within the Regulations.

4.29 In regard to 2), consultation responses received indicated that authorities are concerned that in lieu of full and final Gambling Commission guidance in regard to information exchange, inspection and prosecution, currently envisaged to be published in June/July 2006), there is little substantive information that can be included under these sections of the Regulations. The Department considers it essential for the gambling industry and other persons for authorities to set out as much information as possible as regards their approach in these areas. Whilst the initial policy statement may contain little in terms of detail, further detail can be included in subsequent statements or revisions following publication of the Commission's guidance on these areas.

4.30 In regard to 3), consultation responses received expressed some concern regarding the effectiveness of some of the proposed methods for advertising and publishing licensing policy statements in the draft Regulations. However, the Department is confident that licensing authorities will exercise all of their functions under the Act in a fair and consistent manner, including choosing the most appropriate methods for informing, consulting and notifying persons interested in the development and publication of licensing policy statements in their area. The Regulations stipulate minimum requirements as to the advertisement and publication of the statements and enable authorities to select the methods most appropriate to their area. The Department is content that all of the publication methods listed in the Regulations are suitable vehicles for advertising and publishing statements or revisions. In addition to the statutory requirements, authorities are also able to consult and advertise using methods that are not listed in the Regulations, such as contacting trade associations or

notifying all existing gambling premises. As such, the Government is satisfied that this flexible approach does not require amendment in the final Regulations.

4.31 Concern was also expressed about the definition of "principal office", and the possibility that the principal office would not necessarily be the place where it would be most appropriate for the statement to be viewed (for example, because licensing functions were in a different place). The Department does not agree that "principal office" needs further clarification – it is already a well used term in legislation relating to local government. However, the Department does accept that there may be occasions when the principal office is not the most appropriate place for the statement to be viewed, and has amended the regulations to reflect this.

4.32 In regard to 4), consultation responses received indicated that authorities felt the requirement to advertise the publication of the licensing policy statement two weeks in advance of publication imposed an unnecessary burden and did not provide any additional benefit to the industry or other persons interested in the development of policy statements. The Department considers the requirement to advertise publication of the policy statement to be fundamental in ensuring that the industry and other persons interested in the authority's approach to gambling in their area are able to access the statement as soon as it is published. However, we consider, on reflection, that this can be achieved by enabling authorities to advertise the publication of the policy statement on the same day as the statement itself is published. As such, the Regulations have been amended to state the following:

4.33 Before publishing a licensing statement or subsequent revision, the Regulations require authorities to publish a notice which:

(a) advertises the publication of the statement or revision (this must be done no later than the day on which the statement or revision is published);
(b) specifies the date on which the statement or revision is to be published;
(c) specifies the date on which the statement or revision will come into effect;
(d) specifies the internet address where the statement or revision will be published and the address of the premises at which it may be inspected; and
(e) appears on the authority's website and in/on one or more of the following places:

- A local newspaper circulating in the area covered by the statement;
- A local newsletter, circular, or similar document circulating in the area covered by the statement;
- A public notice board on or near the principal office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

4.34 With regard to publication, the Regulations stipulate that the licensing policy statement or any subsequent revision must be published on the authority's website and be made available for inspection by members of the public at the address stated in the notice. The statement or revision must be published at least 4 weeks before it takes effect.

4.35 In regard to the necessity of Regulations relating to licensing policy statements, whilst the Government supports LACORS in its development of a policy statement framework and template, this cannot be viewed as a replacement for making Regulations. Authorities will be under no statutory obligation to use the LACORS template, and as such, there would remain a risk that key information may be absent from a number of policy statements, adversely affecting the gambling industry in those authority areas. The Department does not consider that a policy statement template will achieve the objectives set out in paragraph 3.2 of the Consultation Document, to '*provide transparency, and to some extent, consistency, for*

persons wishing to apply for a licence or permission under the Act, whilst minimising the imposition of unnecessary financial or administrative burdens on licensing authorities and the industry, and enabling local circumstances to be reflected in licensing policy statements'.

4.36 The Regulations set out minimum requirements, in relation to certain areas that the Government considers are particularly important to be dealt with, that must be included in all licensing policy statements to provide a degree of consistency for the gambling industry. In addition to the statutory requirements, and the suggested information set out in the Gambling Commission guidance, authorities are able to include any other information that they feel is helpful, which will also enable them to deal with local circumstances.

4.37 The Department is satisfied that the Regulations strike the right balance between local licensing authority discretion and a national consistent approach for industry and the public.

4.38 The costs and benefits of this option are set out in paragraphs 5.6 and 5.12 of this document. There is also a table summarising the costs and benefits of all the options at **Fig.1**.

5. Costs and Benefits

(i) Sectors and Groups Affected

5.1 The following will be affected by options 1 to 4:

- Licensing authorities in England and Wales (mostly local authorities);
- Existing operators in the gambling industry providing premises based gambling facilities, of which there are:
  - Approximately 1,000 Family Entertainment Centres[7];
  - Approximately 1,000 arcades and gaming centres[8];
  - Approximately 56,000 alcohol-licensed premises (making gaming machines available for use)[9];
  - Approximately, 19,000 private clubs (providing gaming or making gaming machines available for use)[10];
  - Approximately 678 commercial bingo clubs[11];
  - Approximately 138 casinos[12];
  - Approximately 8,800 betting offices[13];
  - An unknown number of small society lotteries;
- An unknown number of persons who intend to offer premises based gambling under the provisions of the Act;
- A range of other responsible authorities which form part of local authorities, including Environmental Health Departments, Area Child Protection Committees and Social Services Departments;
- Those responsible authorities listed under section 157 of the Act[14] and other authorities to be prescribed by the Secretary of State in Regulations made under that section; and

[7] Figure taken from BACTA's website
[8] As above
[9] Figure taken from Gambling Act RIA
[10] As above
[11] Figure from Report of the Gaming Board for Great Britain 2004-05
[12] As above
[13] Figure from ABB website
[14] Responsible authorities include: the licensing authority, the Gambling Commission, the police, fire and rescue authority, planning authority, council constituted under s.2 of Local Government (Scotland) Act, authority responsible for preventing or minimising risk of pollution or harm to

- Individual persons and bodies representing individual persons, such as residents' and tenants' associations.

(ii) *Benefits*

5.2 Option 1 is likely to benefit the gambling industry and individuals with an interest in licensing authority functions as it will provide a uniform approach to statements that will make them easier to read and to compare. There is also a likely benefit to licensing authorities with option 1: producing the licensing policy statements may take less time and/or less staff if there is no discretion in regard to their form and content.

5.3 Option 2 provides benefits to licensing authorities enabling them to determine their own approach to the form, content, preparation and publication of the licensing policy statements. Authorities would also be able to decide their approach to advertising the policy statement and any subsequent reviews or revisions to the statement. This would mean that authorities could determine the most cost effective methods for producing and advertising licensing policy statements.

5.4 Option 3. The proposed Regulations go no further than to ensure certain key matters are included in licensing policy statements. These are matters that authorities will need to give due consideration to before undertaking their new responsibilities under the Act, and as such are not expected to increase workload or impose unnecessary costs on authorities. The Regulations enable authorities to take local circumstances into account within a prescribed framework. In addition, the Regulations allow local discretion in the advertisement and publication of licensing policy statements. This means that authorities will be able to determine the most suitable and cost effective means of advertising and publishing licensing policy statements and any subsequent revisions.

5.5 Option 3 is also of benefit to the gambling industry. The prescribed framework proposed within the Regulations ensures that key matters are addressed in every statement. Additionally, since the Regulations enable authorities to select the most cost effective methods of advertising and publishing the licensing policy statements, it follows that fewer costs will then be passed on to the industry via premises licence fees.

5.6 Option 4. The benefits that apply in regard to option 3 as set out in paragraphs 5.4 and 5.5 above, also apply in relation to option 4.

(iii) *Costs*

5.7 Option 1 imposes a number of costs on both licensing authorities and businesses/individuals. Licensing authorities would not have the option of including extra information that they want or need to disseminate in the licensing policy statement (for example, they might wish to publish any principles they propose to apply in relation to the application for permits in the statement). This could result in them having to produce and publish a number of documents, when it would be cheaper and easier for them to produce just one.

5.8 Businesses and individuals might likewise have to access a number of different sources of information, rather than just one. The additional costs imposed on licensing authorities by this option would be passed on to businesses through the licence and permit fees.

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public health, body designated to advise authority about protection of children from harm and HM Revenue and Customs.

5.9 Option 2 is likely to present significant costs to both licensing authorities and the gambling industry. For the industry, option 2 may result in large discrepancies between the form of the licensing policy statements. The effect of this is that more time will almost certainly be required to digest and compare the information contained in statements from different licensing authorities. In addition, it is likely also to result in statements being publicised in a range of different manners (if at all), and published in a number of different forms and places. This will necessarily add expense for businesses and individuals in the time taken to find out when and where statements will be published. It may also require further dialogue between the industry and individual licensing authorities in order to obtain this information, which will increase the costs for both.

5.10 For licensing authorities, the lack of a prescribed form may well cause uncertainty in terms of what should be included in the licensing policy statement; the emphasis to be given to different functions; and the way that a statement should be publicised or published, since the licensing and regulation of gambling premises is a new responsibility. This may have time and cost implications, although it should be noted that the Gambling Commission guidance will contain some information about the licensing policy statement. In addition, authorities who do not produce comprehensive licensing policy statements in the first instance may need to review/revise the policy which has both time and cost implications.

5.11 Option 3 presents minimal costs to licensing authorities. We do not foresee any additional costs for licensing authorities arising as a result of our prescribing the form of the licensing statement as the requirements are very basic and the matters to be included in separate sections would need to be addressed by the licensing authority somewhere in the statement in any event. The only potential additional costs are in terms of the advertisement and publication of licensing statements and reviews, but these costs will be passed on to the industry via premises licence fees. By providing authorities with a variety of options in terms of the advertisement and publication of the statements and reviews, however, it is not anticipated that the costs passed on will be significant. This option does result in costs to the industry since, whilst the Regulations set out the key matters to be included in every licensing policy statement, the form of the statement in relation to other matters will differ between authorities as a result of the local circumstances. This may require the industry and individuals to take more time to absorb the contents of different licensing statements than it would if the form were wholly prescribed.

5.12 Option 4. The benefits that apply in regard to option 3 as set out in paragraph 5.11 above, also apply in relation to option 4.

6. Small Firms Impact Test

6.1 Trade organisations that have both large and small operators as members were invited to participate in the consultation exercise. The Small Business Service (SBS) was also invited to participate in the consultation exercise. The Government's objectives, within the overall framework for effective regulation, are to minimise any disproportionate impact on small businesses. We do not consider that the approach proposed by the Department in regard to these Regulations is contrary to this objective.

7. Competition Assessment

7.1 These Regulations are not expected to have a significant impact on competition.

8. Enforcement, Sanctions and Monitoring

8.1 The Act requires all licensing authorities to produce a three-year licensing policy statement by virtue of section 349. A failure to produce and publish this policy in accordance with these Regulations is a breach of statutory duty. As such, licensing authorities who either a) do not produce a statement, or b) do not produce a statement in accordance with the Regulations, will be subject to legal challenge.

9. Implementation and Delivery Plan

9.1 Successful delivery of the proposal is dependent upon achieving the following key milestones:

- These Regulations being laid on 10 March 2006 in order that they come into effect on 31 March 2006 to enable licensing authorities to begin preparing initial drafts of the three-year licensing policy statements;
- The Gambling Commission publishing the final version of their Guidance to Licensing Authorities on 1 May 2006 to further assist licensing authorities in the preparation of their policy statements; and
- Licensing authorities preparing and publishing their three-year licensing policy statements by 31 December 2006, one month before the first appointed day of 31 January 2007.

9.2 Successful delivery of the proposal will have been achieved if all licensing authorities in England and Wales have prepared and published their three-year licensing policy statements by 31st December 2006.

9.3 There are two key risks that may affect successful delivery of the proposal:

- A delay in the publication of the Gambling Commission Guidance to Licensing Authorities; and
- Failure by some, or all, licensing authorities to prepare and publish their licensing policy statements by 31 December 2006.

9.4 In order to minimise the likelihood of these risks, the Department is liaising closely with the Gambling Commission regarding their timetable for publication. The Department is also liaising closely with a number of local authority representative groups in order to ensure that licensing authorities in England and Wales are aware of the timescale for implementation of the Gambling Act 2005 and their responsibilities.

10. Summary and Recommendation

10.1 A summary table setting out the costs and benefits attributed to options 1 to 4 is included at Fig.1 below.

Fig 1. Summary of Costs and Benefits

Option	Benefits	Costs
1	o **Benefit to the gambling industry**: larger businesses with countrywide branches could expect the same information to be contained in the same form in every licensing policy statement, and every licensing policy statement to be advertised and published in the same way. This would make it easier to find essential information in different statements,	o **Costs to licensing authorities**: - unable to take local circumstances into account in giving greater emphasis to certain functions; - likely to increase financial burdens on authorities as they will be unable to include additional matters in the policy statement that they might otherwise have chosen to include;

	and would save time in accessing any particular statement. o **Benefit to licensing authorities**: Policy statements may take less time and/or less staff to produce if there is no discretion as to their form.	- unable to choose the cheapest and most efficient way of advertising and publishing the statement. o **Costs to the gambling industry**: - may have an adverse affect on certain businesses if authorities are unable to take particular local circumstances into account; - may need to consult a number of different sources for information rather than just one; - increased publication/ advertisement costs would be passed onto industry via higher premises and permit licence fees.
2	o **Benefit to licensing authorities**: - authorities able to include whatever they deem appropriate in the policy statement, in whichever form they choose; - authorities able to determine how they advertise and publish the statement and any subsequent reviews/revisions; - authorities able to determine the most cost effective method for preparing, reviewing, revising and publishing policy statements. o **Benefit to gambling industry:** might benefit from all information that may be required to be disseminated from the authority being in one place.	o **Costs to the gambling industry**: - discrepancies across England and Wales as to the information contained within, and form of, the statements; - larger businesses with countrywide branches may need to take more time on each statement to identify the location of relevant information within it and to compare with different policy statements; - some policy statements may not contain important information leading to further dialogue with authorities before an application is made. NB. this can also be regarded as a cost to licensing authorities; - authorities may not adequately advertise or publish licensing policy statements or subsequent reviews/revisions. o **Costs to licensing authorities**: - without some prescribed form, authorities may be unclear about what to include in the licensing policy statement as the licensing and regulation of gambling is a new responsibility. This may have time and cost implications. - if authorities do not produce comprehensive policy statements in the first instance, this may result in a number of revisions/reviews which can be costly and time consuming.

3	o **Benefits to licensing authorities**: - Proposed Regulations go no further than to ensure certain key matters, that authorities will need to give due consideration to before undertaking their new responsibilities, are included in licensing policy statements; - Proposed Regulations enable authorities to determine the most suitable methods for advertising and publishing the licensing policy statements and any subsequent revisions subject to certain minimum requirements; and - Proposed Regulations enable licensing authorities to take local circumstances into account within a prescribed framework. o **Benefits to the gambling industry**: - Prescribed framework means that key matters are addressed in every licensing policy statement in a similar manner; - Knowledge of where and when licensing policy statements are likely to be publicised and published means less time and money spent in finding this information out; - Ability for authorities to determine most cost effective advertising and publication methods will mean less costs passed on to the industry via premises licence fees.	o **Costs to the gambling industry**: - The form and content of licensing policy statements will differ between authorities (as licensing authorities may include additional information), which may mean increased work for the industry as part of the transition/future application process; - Any higher costs borne by licensing authorities in producing licensing policy statements will be reflected in increased premises licence fees to cover the costs. o **Costs to licensing authorities**: - Proposed Regulations may lead to higher costs through increased work for some authorities that had not intended to include all the key matters listed in paragraph 4.10.
4	As option 3 above.	As option 3 above.

11. <u>Declaration and publication</u>

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed:

Date:

Richard Caborn, Minister for Sport, Department for Culture, Media and Sport