

**The future of the Local Better Regulation Office and Extending
the benefits of the Primary Authority Scheme
Consultation Response form**

Instructions for completion			
You can move between questions by pressing the 'Tab'/'Shift-Tab' or 'Page Up' / 'Page Down' keys or by clicking on the grey boxes with a mouse. Please type your replies within the grey boxes or click on the grey boxes labelled 'Please select' to reveal a drop down list to select an answer. Once you have completed the form please return it by email to: treconresponse@bis.gsi.gov.uk			
Please provide information about yourself and your organisation.			
Title: Mr	Forename: Seamus	Surname: Kennedy	
Organisation:	Leeds City Council		
Address 1:	Entertainment Licensing Section		
Address 2:	Civic Hall		
Address 3:			
Town / City:	Leeds		
County:	West Yorkshire	Post code:	LS1 1UR
Tel. number:	0113 2474095		
E-mail address:	entertainment.licensing@leeds.gov.uk		
Sector: Local Authority		Details of 'Other'	
Responding to this consultation:			
Are you responding as:			
An individual <input type="checkbox"/> or on behalf of an organisation <input checked="" type="checkbox"/>			
If you are responding on behalf of an organisation did you consult others within your organisation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If you represent a business, what size is it? Large			
Does your business have sites in more than one local authority area?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Confidentiality:			
Please indicate which option you would prefer:			
• Responses can be published with respondent's details <input type="checkbox"/>			
• Responses can be published, but without respondent's details <input checked="" type="checkbox"/>			
• Responses cannot be published <input type="checkbox"/>			
Unless otherwise indicated responses will be treated confidentially and not be shared with third parties.			

Consultation response – The Future of the Local Better Regulation Office and Extending the benefits of the Primary Authority Scheme

The future of the Local Better Regulation Office

QUESTION 1: Are the functions identified for the new organisation (Primary Authority and system improvement) consistent with the aspirations identified by the government and does the name of the new organisation, Regulatory Delivery Organisation, accurately reflect its scope and function? (Page 7)

Yes No

Please provide comments

QUESTION 2: Will the proposed governance arrangements for the BRDO, including the creation of the Representative Steering Group and the draft Memorandum of Understanding with BIS provide the necessary levels of independent decision making and accountability to stakeholders? (Page 10)

Yes No

Please provide comments

The proposed governance arrangements appear to be sufficient.

QUESTION 3: Do the arrangements for the Representative Steering Group and the draft Memorandum of Understanding with BIS provide sufficient assurance for businesses and local authorities in Primary Authority partnerships that the BRDO will be sufficiently independent? (Page 10)

Yes No

Please provide comments

It should provide transparency in that the proposed arrangements will draw on input from a wide range of stakeholders.

QUESTION 4: Is the proposed membership of the Representative Steering Group appropriate? (Page 10)

Yes No

Please provide comments

Yes. It would be inclusive of relevant members from both business and regulators which should provide for balanced discussions.

QUESTION 5: Are the terms of reference and areas of responsibility for the Representative Steering Group appropriate? (Page 10)

Yes No

Please provide comments

QUESTION 6: Do you agree that the BRDO should continue to support LBRO's existing stakeholder reference groups (World Class Coalition, Business Reference Panel and the Local Authority Reference Panel) and that these groups should work with the Representative Steering Group? (Page 10)

Yes No

Please provide comments

QUESTION 7: Are the arrangements for working with the Devolved Administrations appropriate? (Page 11)

Yes No

Please provide comments

Extending the benefits of the Primary Authority Scheme

QUESTION 8: Do you agree that eligibility for the Primary Authority scheme should be broadened by removing the requirement for:

- a primary authority to itself regulate the business in all areas covered by the partnership?
- businesses whose regulated activities do not coincide in a single local authority area?

(Page 16)

Yes No

Please provide comments

In principle, yes, though reservations that by broadening the Primary Authority scheme under the proposals could see some local authorities swamped with expressions of interest to form a Primary Authority with more than one business which would have a potentially significant impact on staffing resources to deliver the partnership functions. At a time when public funds are being severely cut full cost recovery would be necessary and appropriate based on reasonable costs incurred by the Primary Authority in

delivering its functions under the scheme.

QUESTION 9: Do you agree that eligibility for the Primary Authority scheme should be broadened so that the 'assured advice' benefits of the Scheme become available to different business models such as:

- Company Group structures
- Franchises
- Trade Associations? (Page 17)

Yes No

Please provide comments

However, for this to work would increase bureaucracy because national companies would need to adopt the most onerous condition as their standard practice and apply that to all its outlets irrespective of local factors e.g. closed-circuit television system (see also answer to Q12).

QUESTION 10: Do you agree that:

- The current duty to "have regard to" inspection plans should be amended so that local authorities are obliged to follow inspection plans drawn up by a Primary Authority
- The current duty for local authorities to "give notice" to Primary Authorities when deviating from inspection plans should be amended so that local authorities are obliged to obtain consent in advance from the Primary Authority
- Local authorities should be obliged to provide feedback on inspections to the Primary Authority so that inspection plans can be updated to accommodate current compliance activity by business and to ensure that local issues can be addressed
- Local authorities that object to any element of an inspection plan should be able to request that the BRDO (which consents to all plans before they are implemented) review the appropriateness of the plan
- The current exemptions for inspectors which cover enforcement action should be extended to cover deviations from inspection plans? (Page 19)

Yes No

Please provide comments

Regarding paragraph 1, we are not convinced local authorities should be 'obliged' to follow inspection plans drawn up by a Primary Authority as this is, in my opinion, too prescriptive. There will be frequent and specific

circumstances when there is good reason to depart from an agreed Primary Authority inspection plan e.g. specific local issues, conditions attached to a premises licence (Licensing Act 2003/Gambling Act 2005).

Re paragraph 2, in principle, where a Primary Authority inspection plan exists (or indeed if one could exist for the Licensing Act 2003, Gambling Act 2005 & Local Government (Miscellaneous Provisions) Act 1982 for reasons given below), it would be good practice for a local authority to obtain consent before deviating from it save for exceptional circumstances e.g. where there is serious risk to person and/or property.

Re paragraph 3 - Yes.

Re paragraph 4 - Yes.

Re paragraph 5 - Yes. There should be scope for discretion by enforcers where it is deemed applicable in the individual circumstances.

QUESTION 11: Do you agree that that the following Acts should be included within scope of the Primary Authority scheme so those covered by the regulatory regimes may benefit from the Primary Authority Scheme?

- Part 1 of The Housing Act 2004
- Criminal Justice Act 1988: parts related to age restricted products
- Offensive Weapons Act 1996: parts related to age restricted products
- Regulatory Reform (Fire Safety) Order 2005
- Licensing Act 2003: only those parts related to age restricted products. Do you agree or disagree that these should be included?
- Alternatively, do you think that licensing authorities should 'have regard to' (rather than 'comply with') Primary Authority advice on those parts of the Licensing Act 2003 related to age restricted products?
- Gambling Act 2005: parts related to age restricted products
- Gambling Act 2005: do you think there may be a role for Primary Authority advice on other parts of the Act
- Is there any other legislation, particularly on age restricted products, which you feel should be included within the scope of the Primary Authority scheme? (Page 24)

Yes No

Please provide comments

With reference to paragraph 2.45 (pages 23/24) of the consultation document, we do not believe the Licensing Act 2003 and Gambling Act 2005 or Local Government (Miscellaneous Provisions) Act 1982 (Sexual Entertainment Venues) should be included in the scope of the Primary Authority scheme for the points raised i.e 'Given the importance of licensing

decisions to local democratic accountability and local authorities' responsibilities to create vibrant local places, it may not be appropriate to require licensing authorities to follow Primary Authority advice.'

It must be borne in mind that premises licences and club premises certificates granted under the Licensing Act 2003 (and Gambling Act 2005) are specific to a particular premises and the authorised permitted licensable hours and activities and conditions are granted/imposed specific to those premises, based on local, and not national, factors. As such, this presents practical issues regarding the regulation and enforcement of age-restricted products and services which would not necessarily take in to account local issues specific to the inspected premises e.g. conditions imposed at a licence review hearing.

One important issue needs careful consideration before any decision is made as to whether the Primary Authority scheme is extended to include the Licensing Act 2003 (and Gambling Act 2005) and age-restricted products including alcohol i.e. the police and Trading Standards ordinarily take the lead on test purchase programmes for under-age sales of alcohol. Should the scope of the Primary Authority scheme be extended to include age-restricted alcohol sales then there is potential for a two-tier approach in that Trading Standards is included under the Primary Authority scheme and the police are not. Both agencies work closely together conducting under-age alcohol test purchase programmes, however, Trading Standards will be obliged to conduct its inspection activities in accordance with the scheme but not the police. This would create an anomalous situation in that there would be a disparity in the way either of the two services would operate its inspection programmes and ultimately enforcement outcomes.

The Primary Authority scheme would conflict with the Licensing Act 2003, Gambling Act 2005 and Sexual Entertainment Venues Local Government (Miscellaneous Provisions) Act 1982 licensing policies which has led each local licensing authority to develop its own unique policy and local conditions including age verification measures which varies from premises licence to premises licence.

QUESTION 12: Are there any other ways in which you feel that the Primary Authority benefits may be extended? (Page 25)

Yes No

Please be specific where possible

For the Primary Authority scheme to work effectively would require a major overhaul of the Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982 (the latter for Sexual Entertainment Venues) legislation to put in place national standards/conditions.

Regarding 'Responding to this consultation' (page 1 of the consultation form), the response comments to this consultation is provided by the Entertainment Licensing section only and is not a collective response by the whole of Leeds City Council as an organisation.

Thank you for completing this questionnaire. Please add any other comments you have in the box below and submit this form via email to:

treconresponse@bis.gsi.gov.uk

URN 11/986