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**Protective Services**  
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Recd 7/6/05.

Our Ref: JK/IG  
Your Ref:

3 June 2005

John Glen  
Scottish Executive Health Department  
Tobacco Control Division  
3E(R)  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

Dear Mr Glen

**THE SMOKING, HEALTH & SOCIAL CARE (SCOTLAND) ACT 2005  
(PROHIBITION OF SMOKING IN CERTAIN PREMISES) REGULATIONS 2005 : DRAFT**

Please find enclosed the response to the above consultation approved by the Development and Environment Committee of East Dunbartonshire Council on 24 May 2005.

Yours sincerely

**John King**  
Environmental Health Manager

Enc.

## THE SMOKING HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005

### (PROHIBITION OF SMOKING IN CERTAIN PREMISES) REGULATIONS 2005: DRAFT

***Q1 Do the definitions of words and phrases ensure clarity of what premises are covered or exempted from the regulations? If not, how might they be improved?***

It is considered that the definitions of words and phrases in regulation 1 are clear in relation to what premises are covered and exempt.

***Q2 Display of No-smoking Notices - views are invited on this approach.***

The dimensions and content of the Notice are appropriate. However, we are of the view that the word 'conspicuously' should be included in regulation 2(2). This would be in accord with section 3 of the Act and would avoid doubt, so far as the person having the management and control of the premises is concerned. The regulation could also be more specific and require the outside notice to be at the entrance door to the premises.

***Q3 No-smoking premises - your comments are invited on the existing formula and on how it might be improved.***

Generally, the formula appears to be sound so far as regulation 3(b) is concerned. There may nevertheless, be some element of doubt and debate, perhaps legal debate, in relation to 'the extent to which they are not wholly enclosed is not significant' as used in the explanation to this question. If the explanation is to be used as a form of guidance, it is considered to be too vague and consequently may lead to inconsistencies and appeals.

***Q4 Views are invited on the level of fixed penalties and time limits for payment.***

The level of fixed penalties appear to be adequate and it is accepted that fixed penalties should be issued within 7 days after the event.

***Q5 Application by Councils of fixed penalties and account keeping - views are invited on the general approach outlined here.***

Enforcement and administration costs are subject to further discussions between COSLA and the Executive, but we are firmly of the view that all costs should be met by additional central funding. We therefore do not accept the proposal that any deficit in the account shall be made good out of the Council's general fund.

***Q6 Your views are sought on whether there are any premises which fall into the definition of no-smoking premises at section 4(4) of the Bill [(a)-(d) above], but which have been omitted from the list in Schedule 1.***

Schedule 1 appears to be comprehensive.

***Q7 Your views are invited on: the general merits of this approach; the development of smoking policies for residential care homes; and the targeting of cessation services of these groups.***

The general principle of exemption for adult care homes is agreed. We support the idea of smoking policies and would suggest that policies should restrict smoking to residents with smoking only allowed in designated areas. Cessation services for this group may not be successful.

***Q8 Psychiatric Hospitals and psychiatric units - views are invited on: the general merits of this approach; the targeting of cessation services at this group.***

It is accepted that there are difficulties with these locations and that further discussion is required with interest groups. Cessation services for this group would be appropriate.

***Q9 Designated rooms in hotels and guest houses and B & B to be permitted - views are invited on the merits of this approach.***

We are of the view that this is a reasonable approach.

***Q10 Are there any premises which, taking into account humanitarian, practical or other considerations, are omitted from the exemptions list in schedule 2?***

None.