

**Draft Smoking NI Order 2006 econsultation on-line response**

**Larne District Council Response**

Q1: YES

Q1a: The broad definition of smoking should remain in order to prevent enforcement difficulties.

Q2: YES

Q2a: The definition of smoke-free premises hinges upon the understanding of what constitutes "the public". Council agrees with the definition provided that club members whether licensed or not are members of the public or a section of the public, if this is not the case the definition needs to be more explicit.

Q3a: YES

Q3b: YES

Q3c: YES

Q3d: YES

Q3e: It is accepted that in order to make the legislation fair and workable, certain exemptions will be necessary and will not in any major way detract from the mainstream thrust of the legislation.

Q4: NO

Q4a: (i) It should be clear within the legislation that the owner has ultimate responsibility for ensuring the requirements of the legislation are being met.

(ii) The level of the penalty under Article 9 should be raised to level 5 to reflect the seriousness of the legislation.

(iii) The defences specified in Articles 7(7), 8(4) and 9(5) are at odds with normal legal procedure and in Council's view unnecessary. The normal standard prevailing in all other law of the defendant proving the defence "in the balance of probabilities" should prevail.

Q5: YES

Q5a: If you wish to comment, please do so here

Q6: YES

Q6a: There are practical reasons why enforcement by district councils would be appropriate. The proposed legislation is a major stand-alone public health initiative not under health and safety law. Consequently to introduce an additional enforcing authority will necessitate additional qualifying legislation through amendment of the Health & Safety Enforcing Authority Regulations. This may introduce unnecessary difficulties in interpretation, remove the benefit and convenience of one recognised authority with a resultant dilution of the message.

Q7: YES

Q7a: If you wish to comment, please do so here

Q8: If you wish to comment, please do so here

Q9: If you wish to comment, please do so here

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