

PE1439/I

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**The Scottish
Government**
Riaghaltas na h-Alba



LEGACY 2014
XX COMMONWEALTH GAMES
SCOTLAND

Ms Anne Peat
Clerk
Public Petitions Committee
The Scottish Parliament
T3.40
EDINBURGH
EH99 1SP

Our ref: A6742725
12 September 2013

Dear Ms Peat

PETITION PE1439: BETTING SHOPS, PAYDAY LOAN AND CHEQUE CASHING SHOPS

I refer to my letter of 10 June about the above petition.

The Scottish Government's response of 10 January set out our initial views on the petition and that we were not convinced that changes to planning controls were an appropriate change in this regard.

Having investigated the matter further it is doubtful that changes to planning legislation would provide a robust basis for controls to address the concerns underlying the petition.

As indicated previously, the planning system does not generally regulate the particular goods and services which are sold from premises. Aside from new structures or buildings, the planning system requires planning permission to be obtained for a "material" change in the use of existing premises. What constitutes a "material" change of use will depend on the circumstances of the case.

Payday loan and other financial services

As far as the planning system is concerned, whether a premises is acting as a bank, building society, accountant's office, lawyer's office or pay day loan office, where services are basically sold in shopping areas to visiting members of the public, the planning implications are the same. There is therefore a difficulty in defining a payday loan shop as distinct from other financial services as the difference is in the terms and conditions of the loans they provide, rather than a different activity from banks and similar uses.

Also, the effect of people coming and going, traffic movements, parking, noise issues are unlikely to change significantly with a change in the type of services being sold. It is doubtful, therefore, whether any change in the financial products being sold from such

premises could be regarded as a material change of use in planning terms and therefore require planning permission.

You may have heard reference to removing the freedom from planning control available under the Use Classes Order with regard to payday loan activities. The Order groups uses with similar planning implications together into classes and specifies that changes between uses within the same class do not require planning permission.

Class 2 of the Order groups together financial, professional and other services sold to visiting members of the public, on the basis that, as indicated above, the implications of such uses are broadly the same. Even if payday loan activities could be defined and removed from that class or put into a separate class, that does not automatically mean planning permission is required for such activity. The need for planning permission would return to the abovementioned issue of whether a material change of use was involved.

We have no plans therefore to make this sort of change to planning legislation regarding the Use Classes Order.

Where currently an application for planning permission is required for a change of use of premises, the decision on the application, is required to be made in accordance with the development plan for the area unless material considerations indicate otherwise. The development plan is primarily the responsibility of the planning authority for an area. What constitutes a material planning consideration will depend on the circumstances of the case. However, as indicated in our 10 January response, where there are concerns about the social implications of particular goods or services, these are matters for other legislation; for example licensing of gambling or regulation of financial services. Such issues would be unlikely to be regarded as planning considerations.

Where such licensing and regulation has been devolved, such as alcohol licensing, the Scottish Parliament has been able to put provisions in place to allow local controls on the numbers of outlets. Gambling licensing and financial regulation are, however, reserved matters and we are not therefore in a position to legislate licensing controls in these areas.

Betting Shops

The position with betting shops, or betting offices as they are referred to in the Use Classes Order, is slightly different. One can see that use as a betting office could be defined as a distinct use from other premises selling financial, professional or other services to visiting members of the public. Again, whether an application was required in a specific case would depend on there being a "material" change of use of the premises. As far as decisions on applications for a change to such use, the same test applies as mentioned above with regard to the development plan and material considerations. Again, the issue arises of whether the issues of concern are matters for other legislation, as opposed to planning considerations.

In view of the uncertainty about whether planning considerations could be a basis for robust controls on betting shops to address the issues of concern, the Scottish Government does not intend to pursue a change to the Use Classes Order at the present time.

Conclusion

In closing, while we do not see a role for planning, the Scottish Government is pursuing action where it can with regard to these issues.

With regard to the reserved nature of consumer credit including pay day lending, we have repeatedly called on the UK Government to consider using its powers to introduce a cap on high cost credit and the need for better regulation in this area. The First Minister recently outlined how the Scottish Government would tackle the issues relating to pay day lending, if it had the powers to regulate, including consulting on a cap on interest for high interest loans, restricting the ability for lenders to roll over debt and tighter regulation of the sector. However, without these powers, we are doing all we can to bring about changes using our devolved powers. You will probably be aware of these activities, but a recap may be helpful.

Earlier this summer we introduced changes to the Debt Arrangement Scheme (DAS), freezing interest and charges earlier in the process, to help people in Scotland struggling with high-interest debt; helping more than 2,000 people this year alone. We published a booklet in the Daily Record earlier this year to raise awareness of DAS and direct people to advice rather than payday lending. A DAS marketing campaign commenced on Monday 19 August which included a television advert in Scotland as well as press coverage in the Daily Record and Sunday Mail.

Fergus Ewing MSP, Minister for Energy, Enterprise and Tourism has met with stakeholders from the money advice sector, ABCUL, trading standards and the pay day lending industry to discuss pay day lending issues and how these can be addressed. Meetings have taken place in November 2012 and April 2013 and a further meeting is planned this autumn.

We also recognise that there are alternatives to the high cost credit sector such as credit unions. The Scottish Government recognises the important role credit unions play in providing ethical and affordable savings and loans products to individuals. We know that some credit unions are developing short-term loans that may, for some individuals, be an alternative to high cost pay-day loans. The ethos that underpins the credit union movement is based on thrift and prudent borrowing – many credit unions are uncomfortable about providing people with loans before they have demonstrated a commitment to budgeting and regular saving, so we need to respect this position.

We are keen to do all we can to support and promote credit unions, and recognise the valuable role they play in Scotland's communities. Credit unions are encouraged to consider our third sector funding and business support programmes.

As indicated in previous responses we have been made approaches to the UK Government on issues related to the concerns about betting shops.

I hope this information is of assistance.

Yours sincerely

ALAN CAMERON