



LICENSING ACT 2003

**STATEMENT OF LICENSING POLICY
OF ROSSENDALE BOROUGH COUNCIL
MADE UNDER SECTION 5 LICENSING ACT 2003**

7th JANUARY 2008 TO 6th JANUARY 2011

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1. INTRODUCTION

- 1.1 The Licensing Act 2003 (the Act) and statutory guidance provide the legal framework under which licensing is regulated in England and Wales. This document is produced to explain the criteria under which Rossendale Borough Council, a Licensing Authority within the meaning of the Act, will discharge our functions under the law.

2. LICENSING OBJECTIVES

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance; and
- the protection of children from harm

- 2.1 The licensing objectives are of equal importance and are the only matters which may be taken into account by the licensing authority.

- 2.2 In executing our functions, we will consider the Licensing Act against a backdrop of other legislation, which may impact on the promotion of the licensing objectives.

This will include the,

- Crime and Disorder Act 1998 as amended by the Police Reform Act 2002
 - Human Rights Act 1998
 - Health & Safety at Work Act 1974
 - Environmental Protection Act 1990
 - Anti-Social Behaviour Act 2003
 - Race Relations Act 1976
 - Race Relations (Amendment) Act 2000

- 2.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

- 2.4 We recognise that the leisure industry is a significant contributor to the economy, cultural development, jobs and tourism within the licensing authority area. We seek to create a licensing policy which does not drive a wedge between the industry and enforcement authorities. We intend that co-operation and partnership remain the best method of promoting the licensing objectives.

- 2.5 Subject to the promotion of the licensing objectives, we will encourage facilities to allow people to lawfully enjoy their leisure time in the manner and at the time they wish to. We wish to encourage licensees to provide a wide range of entertainment activities, promote live music, dance, theatrical activity etc., for the wider cultural benefit of the community.
- 2.6 The Licensing Authority will actively encourage and promote a broad range of entertainment, recognising the wider cultural benefits for local communities.
- 2.7 The Licensing Authority will, subject to the licensing objectives, also encourage the Council through its officers and members, to seek premises licences in Council's departments own names for public spaces in the community such as open spaces, town centre squares, community halls and appropriate public spaces.
- 2.8 This will result in performers and entertainers seeking permission from the relevant Council Department or Leisure Trust as the licence holder. Such persons will then be given consent to use such places by the relevant department of the Council, as opposed to obtaining individual premises licences or temporary event notices in respect of events in their own . This will encourage circus and street arts.
- 2.9 The Guidance requires that a Licensing Authority considers such applications from a neutral standpoint. If relevant representations are made, for example by local residents or the Police, they will be considered fairly. Those making representations genuinely aggrieved by a positive decision in favour of the Local Authority will generally be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision.
- 2.10 We will endeavor to carry out our licensing functions in a way that
- ensures public safety
 - supports well managed premises where licence holders actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
 - protects residents' quality of life
- 2.11 We will have regard of how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources and police resources impact on the licensing objectives.

- 2.12 We will discharge our functions with integrity and objectivity. We will work in partnership with the leisure industry, responsible authorities, residents and local businesses to promote the licensing objectives.
- 2.13 We will take account of the statement of policy of neighbouring licensing authorities where common boundaries exist.
- 2.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.
- 2.15 We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are not undermined.
- 2.16 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the definitions of the Act, and the conditions attached to the various authorisations will be focused on matters which are in the control of applicants and licence holders. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Licensing law will however be a key aspect of a holistic approach to the management of the evening and night time economy in town centres.
- 2.17 We will therefore focus upon the direct impact of the activities taking place at or in the vicinity of licensed premises on members of the public living, working or engaged in normal activities in the vicinity of those places.

3. LICENSABLE ACTIVITY

- 3.1 This policy relates to licensable activities. They are:
- The sale of alcohol by retail anywhere
 - The supply of alcohol by or on behalf of a club to members of the club and their bona fide guests
 - The provision of regulated entertainment, namely,
 - The performance of a play
 - The exhibition of a film
 - An indoor sporting event
 - boxing or wrestling entertainment outdoors
 - The performance of live music
 - The playing of recorded music (excluding incidental background music)
 - The performance of dance

- Entertainment of a similar description to live music, recorded music or dance where the entertainment takes place in the presence of the public or a section of the public.
 - The provision of hot food or hot drink at any time between 11 pm and 5 am for consumption on or off the premises.
- 3.2 We, subject to future case law, do not believe that after-dinner speakers, readers and stand-up comedians performing without the addition of any other element described above, fall within licensable activity as defined by Schedule 1 of the Act.
- 3.3 The provision of hot food or hot drink may take place at any time, but we will only be able to regulate such activity between 11pm and 5am. The provision outside these times is not licensable activity under the Act.
- 3.4 We will promote the 4 licensing objectives, namely
 - the prevention of **crime and disorder**
 - **public safety**
 - the prevention of **public nuisance**; and
 - the **protection of children** from harm,and all our decisions will reflect these objectives.
- 3.5 We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises.
- 3.6 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.
- 3.7 We will not deter an individual making an application and having that application judged on its individual merits.
- 3.8 We will not deter any person from making representations in respect of any application or seeking a review of a license.

- 3.9 The applicant for a premises licence will be required to demonstrate on the application and accompanying operating schedule, an active role in promoting and supporting the licensing objectives. We will take notice of a health and safety risk assessment submitted as an appendix to the application.
- 3.10 We will also seek to discharge our responsibilities by linking to Government and Council strategies and policies so far as they impact on the licensing objectives.
- 3.11 We will in particular reflect upon;
- The Crime and Disorder Reduction Strategy
 - Existing Enforcement Concordats
 - The National Alcohol Harm Reduction Strategy
 - Safer Clubbing
 - The designated premises supervisor's ability to control and supervise customer behavior.
 - The number of people attending the premises
 - The customer age profile
 - The nature of drinks promotions
 - The nature of licensable and other activities provided
 - Any evidence of drug or/and alcohol abuse
 - The design, character and layout of the premises
- 3.12 We will acknowledge the benefit of applicants including within their licensing operating schedules and applications, the following control measures to promote the licensing objectives;
- The provision of seating
 - The retention of room divisions to avoid the spread of any disorderly activity throughout the premises
 - The use of separate areas within single room premises to avoid the spread of disorderly activity
- 3.13 We recognise that the need for licensed premises is not a matter for licensing authorities but a matter for Planning Committees and commercial market forces.
- 3.14 The licensing authority will integrate licensing policy with crime reduction, crime and disorder, planning, transport, tourism, cultural strategies and the Public Health North West Alcohol Strategy Group by open dialogue. The Licensing Committee will receive reports from and deliver reports to the relevant bodies.

- 3.15 Any conditions attached to premises licenses and club premises certificates will reflect the Licensing Objectives and where appropriate, local crime prevention strategies
- 3.16 We will monitor the impact of licensing on regulated entertainment, in particular live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be imposed on such events, and this policy will be reviewed if there is evidence that licensing requirements are deterring local cultural events, investment or employment in the area. Liaison with the Executive and Overview and Scrutiny Committees will assist this monitoring process.
- 3.17 We will take account of other objectives such as the Community Health Action Plans and the Violent Crime Reduction Policies and action plans under our Crime and Disorder partnership.
- 3.18 We are committed to avoid duplication with other regulators and will not impose conditions upon licenses which are already requirements under other legislation

4. LICENSING AUTHORITY PROFILE

- 4.1 Rossendale Council is a Licensing Authority under the law. We have appointed a Licensing Committee who will discharge all the functions of the Act. The Committee delegates functions to Sub-Committees and the Licensing Manager in accordance with the Section 182 Guidance and the Act.
- 4.2 We will however use this policy to discharge our functions, and will develop a joint enforcement protocol with the Pennine Division, Lancashire Constabulary.

THE BOROUGH OF ROSSENDALE

- 4.3 The Borough of Rossendale comprises the former Municipal Boroughs of Bacup, Haslingden and Rawtenstall together with Whitworth Urban District and the Edenfield and Stubbins portions of the former Ramsbottom Urban District.
- 4.4 These historic communities stand at the foot of the valleys that cut through the picturesque fells and moor land which characterises much of the Borough. Today they represent the gateways between the industrial towns of East Lancashire and the urban metropolis of Greater Manchester.



4.5 Although the rural nature of Rossendale offers a sharp contrast to its urban neighbours, we have excellent transportation links, and a significant proportion of residents are employment commuters. The M66 to the south of the Borough and the M65 to the North are the catalyst for a new era of business development in the Borough.

4.6 Rossendale Borough Council is one of 14 Councils within Lancashire. It has a population of 66,700 and occupies an area of 13,700 hectares. The population has an average spectrum with ;

- 22.3% of the population between 0 – 14 years
- 9.7% of the population between 15 - 24 years
- 28.9% of the population between 25 – 44 years
- 24.9% of the population between 45 - 64 years
- 14.4% of the population over 65 years

- 4.7 72% of people own their own home, the majority of which with a current mortgage, 15% rented from the local authority, the remaining 13% renting privately or from a social landlord.
- 4.8 The average earnings are £327 per week, as opposed to £401 average in Lancashire, £432 nationally and have an average of 1.8% unemployment in September 2006.

5. CUMULATIVE IMPACT

- 5.1 We will not seek to limit the number of licensed premises simply because any interested party or responsible authority consider that there are enough licensed premises to satisfy demand. Need is a commercial decision for the applicant.
- 5.2 We will take note of representations from a responsible authority or interested party on the cumulative impact of a saturation of premises in a particular area undermining one or more of the licensing objectives by creating an area of exceptional problems of disorder or nuisance.
- 5.3 If such representations are made, we will consider adopting a special saturation policy after consultation.
- 5.4 We will not otherwise impose quotas of licensed premises or artificially restrict trading hours in particular areas.
- 5.5 The onus will always be on the individual or organisation making the representation to provide sufficient evidence for the assertion that the addition of the premises in question would produce the cumulative impact on the licensing objectives. Once a special saturation policy is in existence, the statutory guidance creates a rebuttable presumption against the grant of a licence or a variation of a licence in that area.
- 5.6 We recognise that a potential cumulative effect of a proliferation of late night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night and this in turn may have a number of undesirable consequences, namely :
- An increase in crime against both property and persons in particular in takeaway premises and taxi queues in the vicinity of licensed premises.
 - An increase in noise causing disturbance to residents
 - Traffic congestion and / or parking difficulties

- Littering and fouling

5.7 We recognise that only a minority of consumers will behave badly and that not all the anti-social conduct will be in the vicinity of premises or within direct control of the licensee. Licensing Policy is only one means of addressing these problems. Other mechanisms include ;

- Planning controls
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- Prosecution of personal licence holders who sell alcohol to people who are drunk
- Powers of the Police, responsible authorities or local residents or businesses to seek a review of a premises licence or club premises certificate

5.8 Where there is evidence that a particular area of the district is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further application for premises within any area identified.

5.9 We will take into account :

- The character of the surrounding areas
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation
- The size of the premises subject to consideration

6 PLANNING, DEVELOPMENT CONTROL, RESPONSIBLE AUTHORITIES, TOURISM, PUBLIC TRANSPORT, CULTURE, CRIME PREVENTION AND EMPLOYMENT

6.1 The operational regulatory functions of the Planning, Environmental Health and Licensing functions of the Council will be separated to avoid duplication, inefficiency and theoretical conflicts of interest which may be open to legal challenge. We will not allow licensing applications to be a re-run of planning applications.

6.2 Each relevant committee will provide situation reports relative to licensed premises, to each other, thereby achieving integration between licensing,

- planning and building control functions, measuring the effect of Licensing Act 2003 policy.
- 6.3 We will not restrict objective consideration of licensing hours applications as a consequence of any hours of premises use restrictions placed upon premises under planning legislation.
 - 6.4 Where such planning restrictions exist, an objection or application for licence review can be made specifying the appropriate licensing objective(s) which may be undermined by the licensable activities.
 - 6.5 In general we will expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted for the use of the premises. We acknowledge the ability of an applicant for a premises licence to seek a provisional statement as defined in the Section 182 Guidance. Reference is made to Section 11 of this policy.
 - 6.6 We will secure proper integration of our licensing policy by openly receiving reports from those organisations and Council departments responsible for crime prevention, tourism, transport, race equality schemes, cultural strategy, town centre management and night time economy. We will reflect upon such submissions and amend this policy where appropriate to do so.
 - 6.7 We will monitor the impact of our policy on entertainment, in particular theatrical activity, live music and dancing.
 - 6.8 We will, where necessary, receive reports from and provide reports to, Lancashire County Council addressing the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance. We will have regard to the Transport Plan.
 - 6.9 We will, when required, review the location of Hackney Carriage stands within the Borough to achieve the balance between licensing principles and the principles outlined in Section 6.8 above

7. LICENSING HOURS

- 7.1 We will consider each application upon its individual merits and the basis of any application will be the draft operating schedule. We welcome risk assessment documents being submitted with operating schedules illustrating the applicants assessment of risks relating to promotion of the Licensing Objectives.
- 7.2 Flexible licensing hours will be important to ensure that the concentration of customers leaving premises simultaneously are avoided, minimising the

- possible sources of friction at fast food outlets and taxi ranks, thereby reducing the potential for violence and disorder and fear of such.
- 7.3 We will avoid fixed or artificial early closing times which produce peaks of disorder and disturbance by customers merging into the streets simultaneously. We will balance this with stricter conditions being expected in relation to noise control in areas of dense residential accommodation.
 - 7.4 Subject to the licensing objectives, we accept the principle of licensable activity taking place over 24 hours and 7 days a week and that off-licence premises may sell alcohol during the whole of their trading hours. No general restriction or limitation on hours in any area is imposed by this statement of licensing policy.
 - 7.5 The hours requested by the applicant will normally be approved where the applicant can show in their operating schedule that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area or undermine one or more of the licensing objectives.
 - 7.6 Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.
 - 7.7 The onus to provide the evidence will always be on the person or organisation making the objection or review application. This burden of proof will not however apply should there be a special saturation policy in being in relation to the area where the premises are situated.
 - 7.8 Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested, particularly involving entertainment, the imposition of further conditions may be appropriate.
 - 7.9 We will not impose any obligation under the 2003 Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. If, for example, a public house has no trade on a particular evening, the licence holder is entitled to close the premises.
 - 7.10 We will however encourage applicants to be realistic in the potential opening hours that they apply for.

- 7.11 We acknowledge that the times when an applicant wishes the premises to be open to the public may not be identical to the hours during which licensable activities may take place.
- 7.12 We ask applicants to note that in the case of the sale by retail of alcohol (or supply of alcohol by or on behalf of a club to, or to the order of, a member of a club) for consumption on the premises, “consumption” of alcohol is not a licensable activity.
- 7.13 Therefore, the authorised period specified in the premises licence, club premises certificate or temporary event notice relates to the period during which alcohol may be sold or supplied.
- 7.14 It is therefore permissible for premises to allow the consumption of previously purchased alcohol, within the period between the end of the licensable activity of sale or supply of alcohol and the end of time when the premises will be open.

8. CHILDREN

- 8.1 We recognise the law is applicable to the whole of licensed premises rather than that of a bar only under the repealed 1964 Act. This will include beer gardens and other areas not being viewed as part of the premises as under former legislation.
- 8.2 We will not generally restrict child access to premises beyond that stated in the Act or Regulations unless to prevent physical, moral or psychological harm to children in individual premises. We will consider the individual merits of each application and the style in which premises trade.
- 8.3 We will have particular concern in respect of children where ;
- entertainment or services of an adult or sexual nature are commonly provided;
 - there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - there are premises with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); or
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

- 8.4 We will consider alternatives for limiting access to children and will not impose a right of access for children in licensed premises, this remaining a discretionary matter for the licensee.
- 8.5 These alternative options may include a combination of :
- Limitation of hours where children can be present
 - Exclusion of children of certain ages when particular activities are taking place
 - Limitation on the parts of the premises where children are allowed
 - Age limitations throughout the premises
 - Requirements for children below a particular age to be accompanied
- 8.6 Applicants for licences will normally consider child access in their risk assessments and operating schedules and may volunteer appropriate model conditions in their applications.
- 8.7 When considering applications for premises licences, we will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. We expect applicants to seriously consider access arrangements for unaccompanied children.
- 8.8 In premises showing films, we will restrict access to the relevant part of the premises to meet the required age limit in accordance with any certificate granted by the British Board of Film Classification. In the case of a film that has not been subject to classification under Section 4 Video Recordings Act 1984, we will require the film to be submitted to the Licensing Manager at least 14 days before the proposed exhibition. A certificate will then be given to the film by the Authority and any age restriction imposed must be adhered to.
- 8.9 Where large numbers of unaccompanied children are likely to be present, for example, a children's show or pantomime, conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and protection from harm. We would expect applicants to address these matters in their risk assessments and operating schedule submissions, precluding the need for objections by a responsible authority.
- 8.10 Where premises are exclusively or primarily used for the supply of alcohol, including premises subject to a temporary event notice, the law will not allow unaccompanied children under the age of 16 years to be on the premises if the premises are open for the purpose of the supply of alcohol for consumption there.

- 8.11 Where premises are open for the sale of alcohol for consumption there, including premises subject to a temporary event notice, no unaccompanied person under the age of 16 years will be allowed on those premises between midnight and 5am.
- 8.12 We will take extremely seriously any offence under Section 146 of the Act (selling or supplying alcohol to a child under 18 years) Section 150 (allowing a child under 18 years to consume alcohol on premises) Section 151 (delivering alcohol to children) or Section 153 (unsupervised sales by a person under 18 years).
- 8.13 We emphasise the extended definition of premises from that of a 'bar' under the 1964 Act. Our enforcement protocol will encourage test purchasing by both the police and trading standards, targeting premises in areas of alcohol related anti-social behaviour.
- 8.14 We therefore believe that outside the above prohibitions, the primary responsibility for the control of child admission to premises will rest with the designated premises supervisor.
- 8.15 We will not introduce artificial measurements in deciding whether premises are exclusively or primarily for the consumption of alcohol. We will apply ordinary and natural meanings in the individual circumstances and with local knowledge.
- 8.16 We will encourage and support the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and the British Beer & Pub Association's Guidance on Point of Sale Promotions.
- 8.17 We will encourage responsible under-18 discos, providing licence applicants outline their intentions in their operating schedule, including descriptions of the measures they propose to take to promote the protection of children from harm including an appropriate number of adults having regard to the number and age of the children.

9. CONDITIONS

- 9.1 We will, as far as it is possible to do so, avoid imposing disproportionate and over burdensome conditions on premises. We will not impose standard conditions on premises licences other than mandatory conditions prescribed by the Act. We will adopt a position of reasonableness and proportionality.
- 9.2 Following proven objections or reviews, we will consider imposing realistic conditions appropriate to the circumstances of each individual case. We will consider model conditions of best practice and we will also consider

other conditions proposed by responsible authorities in any particular case.

- 9.3 We will not impose any condition in relation to the nature of the plays which may be performed or the manner of their performance. The absence of any such condition by the licensing authority does not imply any exemption from any other statutory prohibition, such as the Obscene Publications Act or common law.
- 9.4.1 We will however reserve the right to impose any condition which is necessary to promote any of the licensing objectives where an objection to or application for a review of a licence is made.

Dispersal Policies

- 9.5 We will take note of any voluntary dispersal policy at premises and reserve the right to impose dispersal policy conditions upon a licence following relevant representations.
- 9.6 This policy will set out the steps that are to be implemented to disperse customers over an extended period of time specified in the operating schedule. It is intended that customers leave the premises in an orderly fashion without bottles or glasses Etc, thereby reducing the potential for conflict within or in the vicinity of the premises.

Irresponsible Drinks Promotions

- 9.7 We will not impose any conditions on a premises licence relating to the promotion of price fixing or the creation of cartels.
- 9.8 We will encourage adoption locally of voluntary industry codes of practice which cover irresponsible drinks promotions such as that produced by the British Beer and Pub Association (the BBPA's Guidelines on On-Trade Promotions).
- 9.9 We will however consider each application, objection or application for licence review on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are necessary for the promotion of the licensing objectives.
- 9.10 In addition, when considering any relevant representations from responsible authorities, such as the police, or interested parties, such as local residents, which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or in the vicinity of the premises, we will consider the imposition of a condition

prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises.

10. ENFORCEMENT

- 10.1 Enforcement action will be undertaken by properly trained officers of the Licensing Authority outlined in Section 13(2)(a) of the Act and authorised persons defined by Section 13(2)(b to f) of the Act. We have developed an enforcement protocol with Lancashire Constabulary and other enforcement agencies.
- 10.2 We expect that Designated Premises Supervisors and Personal Licence Holders will ensure that all their staff including door supervision staff will be fully trained in the law relating to the rights of entry of authorised persons. We will view obstruction of authorised persons by staff or employed agents of the licensee as a serious matter.
- 10.3 Where there is a closure order made by a senior police officer under Section 161 of the Act or an Environmental Health Officer under the Anti Social Behaviour Act 2003, relating to disorder or noise nuisance, we expect that order to be immediately followed by an application from the person making the order to review the premises licence, whether or not the order is confirmed by a Court under Section 162.
- 10.4 The Licensing Authority has power to institute criminal proceedings in respect of any offence under the Act. We will delegate the authority to report offenders to the Licensing Manager. The Council will apply the sufficiency of evidence and public interest criteria to any decision on prosecution in accordance with the Prosecution of Offences Act 1985. Elected members will be precluded from this decision making process to enable them to retain independence, should conviction result in a subsequent licence review.
- 10.5 Officers of the Licensing Unit will be authorised for the purposes of the Act under Section 13(2)(a). They will not instigate reviews or objections under the Act but will be authorised to report substantive offences for criminal prosecution under Section 186 of the Act
- 10.6 Officers of the Authority, such as Environmental Health Officers and Health and Safety inspectors are authorised persons under Section 13(2) of the Act and the Health and Safety Unit, Development Control and Environmental Health Units are Responsible Authorities under Section 13(4) of the Act.
- 10.7 The persons and units referred to at 10.6 above will have the right to object to licence applications or instigate licence reviews. Any such

representations will be received and dealt with by the Licensing Manager in precisely the same way that they will treat any other representations from interested parties in accordance with Section 9 of the Guidance.

11. VARIATIONS TO LICENCES AND PROVISIONAL STATEMENTS

- 11.1 The Act and Regulations specify the procedure for making application to vary a premises licence.
- 11.2 We will assess each case on its merits and consider whether each application is a minor, major or substantial variation. Section 36(6)(b) of the Act prohibits us from granting a variation where the premises are substantially varied. In such cases a new licence application will be required.
- 11.3 We recognise that in certain situations businesses and developers need to have security that a premises licence is likely to be granted following construction or alteration of premises. We will issue provisional statements in accordance with Section 29-32 of the Act and the Guidance.
- 11.4 Where existing premises are being extended or otherwise altered, we will require the licence holder to notify the Licensing Authority, and to apply for a new licence application or variation as appropriate.
- 11.5 We will not be responsible for any costs or consequential losses incurred by an applicant who constructs or alters premises without taking advantage of seeking a provisional statement.
- 11.6 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and interested parties will be excluded in certain circumstances.
- 11.7 These are where:
- the application for a licence is in the same form as the licence described in the provisional statement; and
 - the work in the schedule of works has been satisfactorily completed;
 - given the information provided in the application for a provisional statement, the responsible authority or interested party could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
 - there has been no material change in the circumstances relating either to the premises or to the area in the vicinity of those premises since the provisional statement was made.

- 11.8 In the context of variations, which may involve structural alteration to or change of use of the building, it should be noted that the decision of the licensing authority will not exempt an applicant from the need to apply for planning permission where appropriate.

12 SPECIAL OCCASIONS

- 12.1 We will not seek to restrict any National orders made by the Secretary of State as regards any special occasion.

13. DESIGNATED PREMISES SUPERVISORS AND PERSONAL LICENCE HOLDERS.

- 13.1 A person fulfilling the qualifying conditions who is ordinarily resident within the Council's geographic area will be entitled to apply for a personal licence. The Act prohibits us from entertaining applications from persons who ordinarily live outside the area. A personal licence holder may also apply for a renewal of a personal licence in a similar manner.
- 13.2 The Chief Officer of Police has the right to object to a personal licence application where the applicant has been convicted of a relevant offence before or during the application period. During the validity of the licence the Chief Officer of Police may not object to a personal licence already granted, but may ask for a review of any relevant premises licence.
- 13.3 Where, during a period of validity, we receive notice that a personal licence holder has been convicted of a relevant offence, we will notify the Chief Constable thereby allowing that officer to consider an objection to the subject being a designated premises supervisor.
- 13.4 We will normally expect a designated premises supervisor to be based at the premises concerned. The DPS will be ultimately responsible for ensuring the licensing objectives and the law is being adhered to.
- 13.5 Where there is an application for the DPS to be based elsewhere, at least one member of staff who holds a personal licence must be based at the premises. A person who is a personal licence holder must instruct staff and authorise the sale of alcohol.
- 13.6 There will not normally be a requirement for a personal licence holder to be present at all times, but the degree of direct supervision of the designated responsible person and personal licence holder will be taken into account when deciding whether there is a defence of due diligence, sufficiency of evidence or public interest to warrant a prosecution.

13.7 The law requires a responsible person as defined in Section 153 of the Act to be on duty to specifically approve the sale or supply of alcohol by a person under the age of 18 years.

14. PREMISES LICENCE REVIEWS

14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.

14.2 We are obliged by law to disregard any complaints made by any person other than a responsible authority, which are vexatious, frivolous or repetitious, The statutory guidance suggests that a complaint would be repetitious if it is substantially the same as a previous application and a reasonable time has not elapsed since the earlier review of grant of the licence.

14.3 Following an application for review of a premises licence or objection, we will encourage the parties to a review to mediate via the Licensing Manager in order that appropriate conditions on a licence may be volunteered in a revised operating schedule prior to a hearing by the Licensing Committee or sub -Committee wherever possible. Representations can be withdrawn in accordance with the Regulations.

15 CLUB PREMISES CERTIFICATES

15.1 The law requires us to be satisfied that a club applying for a club premises certificate are a bone-fide members club. The law requires a number of conditions to be met. These are :

- That, under the rules of the club, persons may not be admitted to membership, or be admitted as candidates for membership, or to any of the privileges of membership without an interval of at least two days between their nomination for membership and their admission;
- That, under the rules of the club, those becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission;
- That the club is established and conducted in good faith as a club;
- That the club has at least 25 members;
- That alcohol is not supplied to members on the premises otherwise than by or on behalf of the club.

15.2 To qualify as a club authorised to supply alcohol to its members and guests, the law requires additional conditions to be met. These are :

- The purchase and supply of alcohol by and for the club is managed by a committee made up of elected members of the club all aged over 18 years;
- No arrangements may be made for any person to receive any commission, percentage or similar payment at the expense of the club with reference to purchases of alcohol by the club;
- No arrangements may be made for any person to derive directly or indirectly any monetary benefit from the supply of alcohol to members or guests apart from to benefit the club as a whole or any indirect benefit a person derives by reason of the supply contributing to a general gain for the club as a whole.

15.3 In determining whether a club is established and conducted in good faith, the Licensing Manager will have delegated authority to look at a number of matters and take those into account. These matters are:

- Any arrangements restricting the freedom of the club to purchase alcohol;
- Any arrangements where the money or property of the club or any gain arising from the running of the club can be used for purposes otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
- The arrangements for giving members information about the finances of the club;
- The books of account or any other records kept to ensure accuracy of that information;
- The nature of the premises occupied by the club.

15.4 We wish to see local culture flourish, and in cases where genuine members clubs wish to allow the public to use the premises, we will objectively consider applications for the same premises to hold both a premises licence and club premises certificate for different parts of the same premises or the same part of the same premises at different times.

16. PUBLIC INFORMATION

16.1 The Licensing Register will be available for inspection at the One Stop Shop during normal office hours.

16.2 The Licensing Register and all current applications will be available on the website of the Council. All minutes of Committee and Sub-Committee will be similarly available together with agendas of future meetings.

16.3 We will require the owner of any premises licence to prominently display in the premises a copy of the licence and schedules in order that the public will be made aware that the premises are licensed, the licensable activities allowed and the name of the designated premises supervisor.

17. TEMPORARY EVENTS

17.1 We recognise that under the Licensing Act, "premises" includes any place in the open air, and therefore many outside cultural and traditional events will require a premises licence or temporary events notice.

17.2 We will therefore, encourage the relevant premises users to give notice in advance of the statutory minimum period of ten working days, which does not include the day of receipt of the application not the day of the event. A minimum period of 28 days notice would be preferred and would allow time for prior consultation between the organisers of the event, police, fire and other statutory agencies to occur. It will also promote liaison and consultation recommended in the Event Safety Guide (purple guide - Health and Safety Executive).

17.3 The law does not allow the Council to allow temporary event notices for events involving more than 499 persons, lasting for more than 96 hours or without an interval of at least 24 hours between two temporary event notices at the same location.

17.4 Temporary events which exceed these limits such as fairs which last for 4 or 5 days or major pop festivals or shows lasting 1 day can attract crowds which give public safety and crime and disorder concerns.

17.5 Where such events are being planned or are being promoted, they will normally involve a full premises licence application. We desire that early notice is given to allow responsible authorities to discuss operating schedules with the organisers prior to a formal application being submitted.

17.6 We desire that operating schedules reflect :

- The event safety guide – (Purple Book) – Health and Safety Executive
- Managing Crowd Safely – Health and Safety Executive
- 5 steps to risk assessment – Health and Safety Executive
- The Guide to safety at sports grounds – Health and Safety Executive
- Safety Guidance for Street Arts, Carnival Processions and Large Scale Performances – Health and Safety Executive

- Rossendale Event Safety Advisory Group planning guide for event organisers – Rossendale Borough Council.

17.7 Where particular areas are used for licensable activity on a regular basis, we will welcome a premises licence application from within the Council.

18. PROHIBITION OF SALE OF ALCOHOL AT GARAGES OR SERVICE AREAS

18.1 In considering whether premises are prohibited from being granted a premises licence under Section 76 of the Act, we will objectively consider the Guidance issued under Section 182 of the Act, and judge each case on the individual circumstances of the application. We reserve the right to require information from the applicant to prove the primary use of the premises.

19. GAMING MACHINES

19.1 The issue of Gaming Permits is not a licensing function under the 2003 Act. The Licensing Committee discharge a non-licensing function under the Gambling Act 2005.

19.2 We will not restrict the age that children are able to play machines beyond the provisions of the Gambling Act 2005