

**Subject:** Revitalising Rossendale Markets

**Status:** For Publication

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**Report to:** Cabinet

**Date:** 15<sup>th</sup> April 2009

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**Report of:** Deputy Chief Executive

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**Portfolio**

**Holder:** Communities and Neighbourhoods

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**Key Decision:** No

Forward Plan  General Exception  Special Urgency

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**1. PURPOSE OF REPORT**

- 1.1 To put forward for approval a new policy for allocation of stalls on Rossendale Markets, in line with the Council's commitment to Revitalise Rossendale Markets.

**2. CORPORATE PRIORITIES**

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective.
- Delivering Quality Services to Customers
  - Delivering Regeneration across the Borough
  - Keeping Our Borough Clean and Green
  - Promoting Rossendale as a cracking place to live and visit
  - Improving health and well being across the Borough
  - Well Managed Council

**3. RISK ASSESSMENT IMPLICATIONS**

- 3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- Failure to implement a new formal policy for allocation of stalls could have the following consequences:-

- a) The markets continue to run on an anti-competitive basis, which could lead to more empty stalls, a lack of customers, and complacent traders, contributing to the further decline of the markets;
- b) Conflict between market management and traders is not reduced;
- c) The quality of service provided to traders and customers could suffer;
- d) The amount of revenue produced by Rossendale Markets would not be maximized.

#### 4. BACKGROUND AND OPTIONS

- 4.1 A recent review of practices and procedures on Rossendale's 3 markets has highlighted a need to refresh and reinforce the Council's current practices and procedures to ensure they are robust enough to withstand scrutiny.
- 4.2 The decision of Cabinet on 21<sup>st</sup> January 2009 was that clear policies and procedures should be drafted and consulted on in relation to the management of markets including stall allocation for new traders, spreading out, competition and charity stalls. The view of cabinet was that Rossendale BC should not have policies or practices which are considered anti-competitive.
- 4.3 Such policies and procedures are to be put in place as part of a number of measures aimed at Revitalising Rossendale Markets, including a marketing strategy and financial review.

#### 4.4 Stall Allocation - Current Policy & Issues

As outlined in the report to the January Cabinet, the current practice of stall allocation on Rossendale Markets is anti-competitive and is set out below:-

Market	Allocation of Lines	Waiting list
Haslingden	Only 1 of any line permitted	2
Bacup	Only 1 of any line permitted (2 where allocated by previous market management e.g. fruit and veg, butchers)	3
Rawtenstall	1 of any line inside 1 of any line outside - 3 (e.g. Food lines) where already allocated by previous market management	7

- 4.5 Currently vacancies on each market are as follows:-

Bacup: 1 double cabin and 30 open stalls (with 4 regular casual traders)

Haslingden: 5 vacant cabins and 20 open stalls (with 0 regular casual traders)

Rawtenstall: 3 indoor stalls, 4 outdoor cabins, and 14 open stalls (with 4 regular casual traders)

- 4.6 The above stall allocation policies have never been formally recorded and there are contradictions to the accepted customs.
- 4.7 Allocating stalls to new traders is extremely difficult, especially where there is any element of similarity in the goods sold (however small, actual or perceived), and a disproportionate amount of the Communities Team's time is spent determining this issue in an effort to avoid conflict with existing traders whilst filling vacant stalls. Some traders will make enquiries as to what is to be sold as soon as they find out about a new trader being allocated a stall, and demand that they not be allowed to sell the same lines as already covered on the market.
- 4.8 More often than not, new traders are not permitted to sell all items requested on their application forms, and this has led to some traders being turned away, traders withdrawing their applications, and traders leaving as they cannot make the most of their stalls.
- 4.9 In addition to this it can be difficult to retain new traders, who are trying to establish their business by attracting and keeping customers, which takes time, and in some cases whilst being faced with conflict from other traders. Currently the Markets offer an '8 weeks for the price of 4' payment agreement to licenced traders to entice and retain new traders.
- 4.10 A further bar to the allocation of stalls to new traders, which impacts on the amount of income the markets generate, is the practice of 'spreading out. This practice is where there is a vacant stall next to any stallholder, they are (by way of custom and practice) permitted to use it to display their stock, without paying a stall charge. This is permitted on the understanding that should another stallholder require the licensed use of this stall, the stallholder 'spreading out' is required to either pay for the use of that stall, or remove their stock from it.
- 4.11 The justification for allowing it is that it makes the markets look full, attracting more customers, however, this practice is extremely difficult to manage and in fact makes it more difficult to allocate stalls to new traders. Some stallholders have 'spread out' over a number of years and they now have an expectation of a right to use that stall. There is also an expectation from casual traders that they can use as many stalls as they like when they are setting up. Stallholders can and have been confrontational when asked to remove stock from stalls they are not paying for and on one occasion the police had to be called to an incident between 2 traders who thought they had the right to spread onto more than one stall.
- 4.12 Trying to accommodate regular casual traders and allocate new stalls is a difficult balance to strike and currently it is very difficult to maximize the use of stalls and income.
- 4.13 To encourage licenced stallholders to take up a second licenced stall at any market, they are currently offered a 5% discount on their cheapest stall. This equates to, for example, a discount of £1.00 on a £20 stall and is not a strong incentive, particularly if there is a vacant stall free which they spread out onto.

4.14 The markets currently operate a goodwill practice of offering a free stall to one charitable cause, per market, per month. This offer is taken up very regularly and often by the same charities, to the exclusion of others. This has recently become difficult to manage due to demand and competition with existing traders' lines. Some charities have asked for monthly stalls to the exclusion of other charities and the lack of a formal policy has led to conflict.

**4.15 Competition - Other markets**

The policies operated by other markets are as follows:-

4.16 Bury Market operates a total of 370 stalls, including an indoor market with over 60 stalls and a specialist Fish & Meat Market. They have no restrictions on the number of any line being sold except that no one selling the same type of goods will be within one stall of the competition.

4.17 Radcliffe Market is a medium sized market hall where all restrictions were lifted after it was struggling financially. It now has over 90% occupation of stalls.

4.18 Calderdale Markets include Todmorden Market Hall with 42 stalls and an Outdoor Market of 179 stalls; and Elland Market, with 12 stalls. Todmorden Market has a policy of creating competition not a monopoly. They will only limit product lines if there are a small number of vacant stalls and they consider the market to be saturated with any line. Elland Market, on the other hand, only permits one of any line to be sold.

4.19 Burnley Market comprises a Market Hall with 119 units and an enclosed 'Open Market' with 100 stalls. They operate a policy of a more relaxed 'balance of trade' but will refuse permission where they consider they have over representation already.

4.20 Clitheroe Market is similar in appearance to Bacup Market and has 31 traditional stalls and 41 cabins. Here the management allow 3 of any line and operate a buffer zone of 3 stalls, however council policy is that if they have empty stalls and a casual trader attends at the market the manager must allow that casual trader to trade, regardless of their line.

4.21 Blackburn Market is another large market of 300 stalls. This market allows competition but they won't allow too much of the same kind of thing. This is a management decision which is accepted by traders. There are several in each category of stall from arts and crafts (6 stalls) to Lingerie (4 stalls).

4.22 Heywood Market is a Market Hall of a similar size to Rawtenstall Market, with small number of outside stalls. They vet their traders carefully to avoid duplication of stalls, although they do have more than one baby and home furnishings stalls listed on their website.

**4.23 Consultation with traders**

4.24 Two pieces of consultation with traders have been carried out. In the first round of consultation questionnaires were issued to all traders (60) and 19 were

returned (31% return rate). The questionnaires contained general questions about the markets and the issues affecting them. Traders felt that the reason for empty stalls on the market was because markets are struggling in the current economic climate and 4 felt that it was because of a lack of customers. Only 1 trader felt that it was because of a lack of competition.

- 4.25 When asked how to attract more traders to each of the markets, 11 traders felt that advertising and promotion for both customers and traders was the key.
- 4.26 One trader was of the view that competition was good, as long as there were not too many competitors. 16 traders felt that there should be restrictions placed on new traders and 5 of these felt that this restriction should be not to have too many traders selling the same goods. 8 traders felt that this was because markets need to have variety in the lines being sold.
- 4.27 In relation to spreading out, 13 traders did not spread out, whilst 6 did. 9 traders felt that spreading out should be permitted and a further 9 felt it should be permitted in some circumstances. 15 traders said that spreading out makes the markets look busier and more attractive.
- 4.28 In the second round of consultation, statements taken from the attached draft policy were issued to 60 traders, and comments on each statement were invited and 18 responses were received (30% return rate). The statements included the early indications of Cabinet in relation to not operating anti-competitive policies.
- 4.29 The results of the consultation were that the majority of traders are in favour of there being incentives for new traders and discounts for permanent traders taking up licences for additional stalls.
- 4.30 In relation to the allocation of stalls, traders don't agree on whether the market should be restriction free. 11 traders are of the view that there should be restrictions in place on the markets, though views vary as to what those restrictions should be, and 7 traders are of the view that there should be no restrictions.
- 4.31 Views are also mixed regarding permitting 'spreading out', with 9 traders stating that spreading out should not be permitted, and 8 traders agreeing with charges being made, whereas 8 traders feel that spreading out should be permitted without charges.
- 4.32 In relation to trading hours, 12 traders are of the view that minimum trading hours should be enforced, with an equal number of traders favouring penalties and rewards for keeping to the minimum hours.
- 4.33 Additional comments made include 4 traders requesting that there be one market manager to manage Rossendale Markets.

## **COMMENTS FROM STATUTORY OFFICERS:**

### **5. SECTION 151 OFFICER**

- 5.1 Cabinet recommendations to Council as part of the Budget setting process for 2009/10 was to increase fees by 7.5% in order to close the gap between income and costs.

### **6. MONITORING OFFICER**

- 6.1 No comments.

### **7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)**

- 7.1 No HR implications arising from the report

### **8. CONCLUSION**

- 8.1 The Cabinet recognise that the Rossendale Markets are in need of revitalising. Central to this is to have in place clear policies regarding the management of Rossendale Markets which maximize the use of stalls, maximize income, and ultimately lead to a busy, vibrant and well run market.

- 8.2 The attached policy pays regard to the Cabinet's recommendations of 21<sup>st</sup> January 2009, the challenges highlighted in the 'Background and Options' section above and the consultation with traders.

- 8.3 In relation to competition and diversity on the markets, the policy allows for restrictions on allocating new traders to be lifted, subject to a maximum of 3 of any line being sold on each market. It is suggested that this be for a 6 month period, following which a review would take place to determine how effective this policy has been in reducing conflict, reducing vacant stalls, and ensuring the markets encourage competition and diversity.

### **9. RECOMMENDATION(S)**

- 9.1 Subject to any amendments made by Cabinet approve the attached policy and implement from 1<sup>st</sup> May 2009.

### **10. CONSULTATION CARRIED OUT**

The Markets Working Group recommended that this report be carried out and fed into the Council's Cabinet for discussion and recommendations on a way forward.

Report to Cabinet on 21<sup>st</sup> January 2008

A Highlight Report has been to Executive Management Team who support the review.

Consultation with traders regarding the matters raised in this report has been carried out and the results are indicated in the main body of the report.

#### 11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required Yes

Is a Community Impact Assessment attached Yes

#### 12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

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## Market Management Policy

### Introduction

Rossendale has 3 markets: Bacup; Haslingden & Rawtenstall, each located in their respective town centres.

Stalls on each market are licensed to permanent stallholders if they sign an agreement to attend on every market day, pay stall charge on days they do not attend to reserve the stall, and give one week's notice if they wish to leave the market.

Stalls are also allocated to traders on a daily 'casual' basis. Such traders only pay when they attend the market and are not guaranteed a stall on arrival – stalls are allocated on a first come, first served basis.

### Rossendale Borough Council's Vision

It is the vision of Rossendale Borough Council for Rossendale Markets to be busy, vibrant markets, attracting tourism to the borough and supporting the local economy by creating jobs and providing affordable goods.

Any decision made by Rossendale Borough Council's officers will be in pursuance of this vision, and for the benefit of the markets as a whole, rather than individual businesses.

### Operation

The markets will operate on the following basis:-

Bacup:           General trading on Wednesdays & Saturdays 9am to 4pm  
                    Fleamarket on Fridays 9am to 2pm

Haslingden: General Trading Tuesday and Friday 9am to 4pm

Rawtenstall: General trading Thursdays and Saturdays 9am to 4pm

Any arrangements to open or close the markets other than in accordance with the above will be the subject of consultation between the Market Management, the Portfolio Holder and the Market Traders. The Market Management have authority to set the arrangements in terms of opening, closing, charging and allocating stalls having regard to this consultation.

### New Trader Requirements

All new traders, whether wishing to trade on a daily, temporary or permanent basis, must complete an application form before being given permission to trade.

Traders requesting a stall on a permanent or temporary basis must complete an appropriate form supplying their full details including name, address, date of birth



and national insurance number. A detailed description of the goods they wish to sell must be provided, together with proof of public liability insurance, before any applicant will be given permission to trade on Rossendale Markets.

Application forms can be obtained by contacting the Market Management on 01706 217777 or from the website [www.rossendale.gov.uk](http://www.rossendale.gov.uk)

Casual traders who telephone prior to attending any market day will be required to supply full details over the phone, including name, address, date of birth and national insurance number. Details of the goods to be sold and confirmation of public liability insurance will also be required. Traders must bring proof of public liability insurance to the market on the day of trading, and failure to do so will lead to them being turned away from the market.

As part of a nationwide anti-fraud initiative, all details supplied by traders will be disclosed to the Senior Counter Fraud Officer, Benefits Investigation Unit, Capita / RBC

### **Permanent Stallholders**

Permanent stallholders will be required to sign a licence, containing the terms and conditions of trading. The licence will set out those goods which the trader is permitted to sell. Selling any goods not on the licence will be a breach of the licence conditions and will be dealt with accordingly. Traders wishing to change or add to the list of goods they are permitted to sell must make a written application to the market management.

The Market Management has the right to remove any line of goods from the licence of any trader who does not sell it for a period of 12 months.

Any breach of the licence conditions will be dealt with in accordance with the breach procedure set out below.

Any stallholder who takes up a second permanent, licenced stall on any market will receive a 10% discount on total stall charge of all stalls.

### **Stall Charges**

All stallholders will be informed at the time of taking up a stall how much the stall charge will be. Stall Charges are payable on request of the Market Management in accordance with licence conditions.

Stall Charges will be reviewed on an annual basis.

In return for regular prompt payments and all payments being up to date by the end of each financial year, licenced traders who have traded for a period of 12 months will receive 2 free weeks each year, to be taken in April unless agreed otherwise with the Market Management.

The Market Management has delegated authority to issue financial incentives to new traders in return for a commitment to trade on Rossendale Markets.

### **Stall Allocation (1) – Competition & Diversity**

The decision on whether a stall can be allocated to any applicant rests with the Market Management, currently the Communities Team. Their decision will be made as to what is best for the markets as a whole, and their decision is final.

Rossendale Borough Council believes that competition benefits the consumer in providing choice and value for money, and aims to ensure the markets are as full as possible. However Rossendale Borough Council also recognises that the markets should not become saturated by any one line.

Having regard to the importance of striking this balance, Rossendale Borough Council will aim to ensure all vacant stalls are allocated with a view to ensuring there is both choice and variety on the markets, subject to a maximum of 3 of any line on each market. This restriction will apply for a 6 month period, and will be reviewed.

New traders selling similar lines will be allocated a stall as far away from existing stallholders selling similar lines as vacant stalls and the market will allow.

Any existing trader wishing to add to their existing line must make a formal application to amend their licence. If the new line is not directly related to their existing lines, they will be required to take up a separately licenced stall.

Any casual trader who makes contact with the Market Management prior to a market trading day will be allocated a stall in accordance with this policy.

### **Stall Allocation (2) – Spreading Out**

The practice of licenced or casual traders spreading out onto vacant or non-licenced stalls at no extra cost will be prohibited.

Casual traders will be allocated stalls in blocks of 2 or 3, which will be marked accordingly.

\* The charges for these blocks will be:-

Bacup:	2 stalls - £10.70	3 stalls - £14.00
Haslingden:	2 stalls - £ 8.60	3 stalls - £11.00
Rawtenstall:	2 stalls - £10.20	3 stalls - £13.50

\* (subject to any increase)

Licenced traders will not be permitted to 'spread out' without paying the appropriate stall charge.

Any trader who takes up a second or subsequent stall on a permanent and licenced basis will receive the discount highlighted above.

Any licenced trader who displays or stores stock on any vacant stall without paying the required stall charges will be required to remove their stock and failure to do so will result in action being taken for a breach of licence conditions.

Casual traders who fail to pay for all stalls used to display goods in accordance with this policy will be required to leave the market.

### **Breach of licence conditions**

Traders will be monitored and any breach of licence conditions will be raised with the trader concerned verbally.

If the breach continues the trader will receive a written warning to cease the activity causing the breach, failing which the licence will be terminated.

If there is a further breach following this letter the trader will receive written notice terminating their licence and making arrangements for stock removal (if applicable).

### **Appeals**

Traders have the right to appeal against the termination of their licence. They must indicate their intention to appeal, in writing, within 14 days of the notice of termination being issued. This letter should indicate on what basis the trader is appealing the decision. An appeal hearing will then be set, and a statement prepared by the Market Management confirming the circumstances of the termination.

The trader must be given 14 days notice of the hearing date and the statement must be disclosed to the trader at least 7 days before the hearing. Traders have the right to be legally represented at this hearing.

There will be no right of appeal against not being allocated a stall at any market.

### **Charitable Stalls**

Rossendale Borough Council is committed to supporting local charities and as such offers one free stall on each market, each month to any charity.

Only one charity stall will be let per month. Charities can have a maximum of 3 charity stalls in any calendar year, and they will not be granted a free stall in consecutive months.

Applications for a charity stall must be made on the appropriate application form and applicants must be for a charitable cause (but not necessarily a registered charity). Proof of public liability insurance will be required before any charity can be allocated a stall.

Application forms can be obtained from the Market Management by contacting 01706 217777 or from the Rossendale BC website [www.rossendale.gov.uk](http://www.rossendale.gov.uk)

**Review**

Application of this policy will commence on 1<sup>st</sup> May 2009.

This policy and any changes in charges will not apply retrospectively.

This policy will be reviewed 6 months after commencement.