

# Licensing Act 2003 Summary of Changes

**This document outlines the significant changes made to the draft Statement of Licensing Policy and should be read in conjunction with the draft policy for 7<sup>th</sup> January 2011 to 6<sup>th</sup> January 2014**

# Introduction

This document attempts to highlight the significant changes made to the Statement of Licensing Policy upon which the licensing authority is consulting.

It should be read in conjunction with the draft Statement of Licensing Policy for 7<sup>th</sup> January 2011 to 6<sup>th</sup> January 2014. The draft policy can be viewed on the Council website at [www.rossendale.gov.uk](http://www.rossendale.gov.uk).

Printed copies can also be requested by contacting the Licensing Office.

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Sections in italics appear in this document as they do in the draft policy. These are followed by an explanation of the change or addition.

The consultation period runs from 13<sup>th</sup> September 2010 to 27<sup>th</sup> October 2010. Consultation responses must be made in writing to the address above and must be received by the end of 27<sup>th</sup> October 2010. Standard response forms are also available. These can be obtained from the Licensing office; contact details as above.

Information on the licensing act can be found at [www.culture.gov.uk](http://www.culture.gov.uk).

## Changes

The four licensing objectives have been added to the beginning of the draft policy and are repeated throughout the document.

## **5. Licensable Activity**

- 5.1 *We recognise that the Act refers to ‘relevant representations’ and as such, representations may be positive in nature and may not oppose an application. To be considered as valid representations, these must be sent to the licensing authority within the statutory 28 day representation period.*

This paragraph has been added to the draft policy. It is not however, a new issue or term. Whilst local language often refers to representations as objections, the Act does not make reference to representations being only opposing in nature. The draft policy therefore recognises that representations may equally support applications.

## **6. Representations/Petitions**

- 6.1 *The Act defines what may be considered as a relevant representation. We will not deter any person, falling within this definition, from making representations in respect of any application where permitted to do so under the Act, or seeking a review of a licence.*
- 6.2 *We recognise that people may wish to arrange for a petition against an application, however, the licensing authority must be able to establish whether the signatories on a petition fall within the definition of an interested party.*
- 6.3 *Petitions should therefore be arranged in such a manner that they contain a header outlining the name and address of the premises and the reasons for the representation at the top of every page. These reasons must be based around the four licensing objectives.*
- 6.4 *Petitions must ensure that they give the name and address of each signatory and they should include only the names and addresses of persons who live, and the business addresses of those who trade, ‘in the vicinity’ of the application premises.*
- 6.5 *Petitions must ensure that they include the details of a nominated spokesperson who will receive details about the hearings etc, from the licensing authority and who may be willing to speak on behalf of the petitioners at the hearing.*
- 6.6 *We will not contact individual petition signatories. It will be responsibility of the nominated spokesperson to liaise with individual signatories.*

This section has been added to the draft policy to outline what the licensing authority expects when petitions are used as representations and how the licensing authority will deal with them. It is important that interested parties have the freedom to voice their concerns on relevant applications in a way that demonstrates to the licensing authority, the volume and intensity of their concern. It is equally important that the licensing authority are able to determine whether signatories fall within the definition of an interested party and this new section outlines how we will do this. The licensing authority may not extend this definition and must adhere to the Act.

## **14. Variations to licences and Provisional statements**

- 14.1 *The Act and regulations specify the procedure for making an application to vary a premises licence, whether this is a full or minor variation.*
- 14.2 *We will assess each case on its merits and consider whether each application is a minor, full or substantial variation, having regard to the Act and the statutory guidance. Section 36 of the Act prohibits us from granting a variation where the premises are substantially varied. In such cases an application for the grant of a new licence will be required.*
- 14.3 *We would encourage applicants to seek advice from licensing officers prior to the submission of any application, in particular, applications to vary a licence and applications for the grant of a licence.*
- 14.4 *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 their premises. We will issue provisional statements in accordance with the Act.*
- 14.5 *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.*
- 14.6 *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.*
- 14.7 *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.*
- 14.8 *In the context of variations, which may involve structural alterations 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.*

This section is not entirely new, however it does introduce the minor variations process. The Licensing Act 2003 amendments relating to minor variations

commenced on 29<sup>th</sup> July 2009. Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. In accordance with the guidance, the authority to determine whether an application is a minor one will be delegated to officers.

## **22. Sexual Entertainment Venues**

*22.1 The licensing authority will, in due course, consider its position in relation to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.*

*22.2 This new legislation concerns the regulation of sex entertainment venues.*

This is a new section in the draft policy as a result of the Policing and Crime Act 2009. The increase nationally in the number of lap dancing clubs since the implementation of the Licensing Act 2003 has become a concern for many local communities. Currently any representations made against premises licence applications for venues providing lap dancing and similar entertainment can only be based on the four licensing objectives.

As a result, licensing authorities could not consider the objections of local people and businesses that were based on matters outside the scope of the four objectives, for example, such as whether a lap dancing club would be appropriate given the character and locality of the area in which it was proposed to be situated.

The government has responded to calls for further controls to be introduced specific to lap dancing clubs and similar premises by introducing legislation through the Policing and Crime Act 2009 to reclassify such venues as a new 'Sexual Entertainment Venue' under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

## **Appendix 2 – Responsible Authorities**

This appendix is new to the draft policy and is included for convenience only. It does not form a part of the policy.

## **Appendix 3 – Local Safeguarding Children's Board**

This appendix is new to the draft policy and is included for convenience only. It does not form a part of the policy.