

Subject: Statement of Licensing Policy

Status: For Publication

Report to: Licensing Committee
Council

Date: 26th October 2010
15th December 2010

Report of: Director of Business

Portfolio

Holder: Environmental Services

Key Decision: No

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To inform members of the consultation in respect of the Statement of Licensing Policy for the period 7th January 2011 to 6th January 2014.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective/s.

- Delivering Quality Services to Customers (Customers, Improvement)
- Promoting Rossendale as a cracking place to live and visit (Economy)

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 The Council is required under Section 5 of the Licensing Act 2003 to adopt a Statement of Licensing Policy which sets out the basis upon which it will perform its licensing functions.

4.2 The statement is valid for 3 years and at the end of the 3 year period, a revised statement must be produced and consulted upon.

4.3 This statement has now been revised and is appended at Appendix A. Public consultation on the draft Statement of Licensing Policy took place from 13th September 2010 to 27th October 2010.

- 4.4 A summary of changes has also been produced and forms part of the consultation pack. This summary is appended at Appendix B. The full pack was available at Rawtenstall Library during the consultation period.
- 4.5 The consultation documents were also available on the Council's website during the consultation period.
- 4.6 Consultation responses were considered and where appropriate, the statement of licensing policy was amended to reflect the responses.
- 4.7 The final statement is presented to Council for approval. Once approved, the revised statement will be published and shall come into force on 7th January 2011.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 There are no material financial implications.

6. MONITORING OFFICER

- 6.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies.

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

- 7.1 There are no specific human resources implications.

8. CONCLUSION

- 8.1 The Council is required under Section 5 of the Licensing Act 2003 to adopt a Statement of Licensing Policy which sets out the basis upon which it will perform its licensing functions. This statement has now been revised and consulted upon.

9. RECOMMENDATION(S)

- 9.1 That Council approves the amended Statement of Licensing Policy.

10. CONSULTATION CARRIED OUT

- 10.1 The Council has consulted upon its draft Statement of Licensing Policy with the following persons:

- The chief officer of police
- The fire and rescue authority
- Premises licence holders
- Club premises certificate holders

- Designated premises supervisors
- All elected members
- Crime and Disorder Reduction Partnership
- Members of the public

10.2 Consultation documents were available at Rawtenstall Library and on the Council's website.

11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required Yes

Is a Community Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

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Appendices	
Document	Appendix Number
Draft Statement of Licensing Policy	Appendix A
Summary of Changes	Appendix B

Licensing Act 2003 Statement of Licensing Policy

This statement of policy is made under Section 5 of
the Licensing Act 2003

7th January 2011
to
6th January 2014

DRAFT

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The Licensing Objectives

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance; and**
- **The protection of children from harm**

1. Introduction

- 1.1 The Licensing Act 2003 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.
- 1.2 Rossendale Borough Council is a Licensing Authority under the provisions of the Licensing Act 2003 (the Act) and is referred to as the “licensing authority” throughout this policy.
- 1.3 This statement of licensing policy is made under section 5 of the Licensing Act 2003.
- 1.4 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the guidance issued under section 182 of the Act.
- 1.5 The licensing authority must have regard to the guidance issued under section 182 of the Act, but can, if it considers it appropriate, deviate from the guidance. It must however, have good reasons for doing so and will explain these reasons in the circumstances of the application.
- 1.6 This policy was adopted by Full Council on (date to be inserted) and took effect on 7th January 2011. It will remain in force for a period of no more than 3 years and will be kept under review.
- 1.7 In adopting this policy, the licensing authority intends that co-operation and partnership between the leisure industry and enforcement authorities remains the best method of promoting the licensing objectives.
- 1.8 The licensing authority 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.
- 1.9 Every application considered by the licensing authority under this policy will be considered on its individual merits. Nothing in this policy will undermine the rights of any individual to apply for a variety of permissions under the Act and to have such application considered on its merits.
- 1.10 Many of the decisions and functions undertaken by the licensing authority will be purely administrative in nature. This policy aims to underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.

2. Licensing Authority Profile

- 2.1 Rossendale Borough 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 service Manager in accordance with the guidance issued under section 182 of the Act and the Act itself.

2.2 We will however use this policy to discharge our functions, and will develop a joint enforcement protocol with the Pennine Division, Lancashire Constabulary.

3. The Borough of Rossendale

3.1 Rossendale is situated in East Lancashire, approximately 25 miles north of Manchester. It covers 138 square kilometres and in 2009 had a population of 67,100.

3.2 The Borough is made up of several small towns, the main ones being Bacup, Haslingden, Rawtenstall, Whitworth and Waterfoot.

3.3 For representative purposes the Borough is split into 13 individual Electoral Wards with 36 Council members each elected for four years. In addition to the Borough Council, Whitworth has its own Town Council with 12 members.

3.4 Rossendale has a higher than average proportion of its population in the youngest 0-14 age group.

3.5 It is estimated that between 2008 and 2033, the population of Rossendale will increase by 8.8% (England = 18.0%).

3.6 The ethnic mix is less pronounced than other authorities in East Lancashire.

3.7 Rossendale has a high proportion of its housing stock in the lowest category 'A' council tax band.

3.8 Rossendale is a business location with good road links in to the Greater Manchester conurbation.

3.9 Average earnings in Rossendale are below the Great Britain average, but are much higher when measured by place of residence than by place of work. The authority has a very positive net benefit from commuter flows primarily as a result of its close proximity to the Manchester area.



4. Licensing Objectives

4.1 The licensing objectives are:

4.1.1 The prevention of crime and disorder;

4.1.2 Public safety;

4.1.3 The prevention of public nuisance; and

4.1.4 The protection of children from harm

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

4.3 In executing our functions, the licensing authority will consider the Licensing Act against a backcloth of other legislation, which may impact on the promotion of the licensing objectives. These will include, but not be limited to:

- Crime and Disorder Act 1998 as amended by the Police Reform Act 2002
- Human Rights Act 1998
- Health and Safety at Work Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour Act 2003
- Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
- Health Act 2006
- Violent Crime Reduction Act 2006
- Private Security Industry Act 2001
- Policing and Crime Act 2009
- Crime and Security Act 2010
- Regulatory Reform Order (Fire Safety) 2005
- Regulator's compliance code
- Joint enforcement protocols with responsible authorities under the Act
- LACORS Practical Guide to Test Purchasing
- EU Services Directive

4.4 The licensing authority will continue to develop appropriate partnership arrangements, working closely with the police and fire authorities, local businesses, pubwatch schemes, community representatives and local people, in meeting these objectives.

4.5 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.

- 4.6 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.
- 4.7 The licensing authority will actively encourage and promote a broad range of entertainment, recognising the wider cultural benefits for local communities.
- 4.8 We will endeavour to carry out our licensing functions in such a way as to:
- Ensure public safety
 - Support 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
 - Protect the quality of life of residents
- 4.9 We will have regard to how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources and police resources impact on the licensing objectives.
- 4.10 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.
- 4.11 We will take account of the statement of policy of neighbouring licensing authorities where common boundaries exist.
- 4.12 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.
- 4.13 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.
- 4.14 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.
- 4.15 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.

5. Licensable Activity

5.1 This policy relates to licensable activities. These 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;
 - The performance of live music;
 - The playing of recorded music (except 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 11pm and 5am for consumption on and off the premises

5.2 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.

5.3 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.

5.4 We will promote the four licensing objectives and all our decisions will reflect these objectives.

5.5 We consider each licensing objective to be of equal importance. They will be considered in relation to matters centred 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.

5.6 Licensing law is not the primary 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.

5.7 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.

- 5.8 We consider that a well drafted and specific operating schedule indicates the applicant's understanding and willingness to meet the responsibilities of a licence holder under the Act.
- 5.9 We consider that a blank or sparsely completed operating schedule gives the impression that the applicant has not given sufficient thought to the responsibilities of a licence holder.
- 5.10 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.
- 5.11 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.
- 5.12 We will acknowledge the benefit or 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
- 5.13 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.
- 5.14 The licensing authority will integrate licensing policy by open dialogue, with crime reduction, crime and disorder, planning, transport, tourism, cultural strategies and the Public Health North West Alcohol Strategy Group.
- 5.15 Any conditions attached to premises licences and club premises certificates will reflect the licensing objectives and where appropriate, local crime prevention strategies.
- 5.16 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.
- 5.17 We will take account of other objectives such as the Violent Crime Reduction policies and action plans under our Crime and Disorder Partnership.

5.18 We are committed to avoiding duplication with other regulators and will not impose conditions upon licences which are already requirements under other legislation.

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.

7. Cumulative Impact

7.1 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.

7.2 We will take note of representations from a responsible authority or interested part 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.

7.3 If such representations are made, we will consider adopting a special saturation policy after consultation.

7.4 We will not otherwise impose quotas of licensed premises or artificially restrict trading hours in particular areas.

7.5 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.

7.6 We recognise that a potential cumulative effect on 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; and
- Littering and fouling

7.7 We recognise that only a minority of consumers will behave badly and that not all anti-social conduct will be in the vicinity of licensed 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, local residents or businesses to seek a review of a premises licence or club premises certificate

7.8 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.

7.9 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;
- The nature and character of the proposed operation; and
- The size of the premises subject to consideration

8. Development Control, Public Transport, Crime Prevention and Tourism

- 8.1 The operational regulatory duties 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 application.
- 8.2 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.
- 8.3 We will not restrict objective consideration of licensing hours in applications as a consequence of any hours restricting the use of the premises placed upon it under planning legislation.
- 8.4 Where such planning restrictions exist, an objection or application for a review of a licence can be made, specifying the appropriate licensing objective(s) which may be undermined by the licensable activities.
- 8.5 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 Act.
- 8.6 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.
- 8.7 We will monitor the impact of our policy on entertainment, in particular, theatrical activity, live music and dancing.
- 8.8 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.
- 8.9 We will, when required, review the location of Hackney Carriage stands within the Borough to achieve the balance between licensing principles and those outlined above.
- 8.10 We recognise that there may be circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours differ to the licensing hours, the applicant must observe the earlier closing time.
- 8.11 Premises operating in breach of their planning permission would be liable to prosecution under planning law.

9. Licensing Hours

- 9.1 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 applicant's assessment of risks relating to the promotion of the licensing objectives.

- 9.2 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.
- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 Where there is evidence that one or more licensing objectives would be undermined, a responsible authority or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.
- 9.7 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 force in relation to the area where the premises are situated.
- 9.8 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.
- 9.9 We will not impose any obligation under the 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.
- 9.10 We will however encourage applicants to be realistic in the potential opening hours that they apply for.
- 9.11 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, however, opening hours may not be applied for such times that are less than the times that licensable activity is authorised for.
- 9.12 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.

9.13 Therefore, the authorised period specified in the premises, club premises certificate or temporary event notice relates to the period during which alcohol may be sold or supplied.

9.14 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.

10. Children

10.1 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 they style in which the premises trade.

10.2 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.

10.3 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.

10.4 These alternative options may include a combination of:

- limitation of hours when 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; and
- requirements for children below a particular age to be accompanied.

10.5 Applicants for licences will normally consider child access in their risk assessments and operating schedules and may volunteer appropriate model conditions in their applications.

- 10.6 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.
- 10.7 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 of the Video Recordings Act 1984, we will require the applicant to seek authorisation from the licensing authority for the film to be screened. A certificate will then be given to the film by the Authority and any age restriction imposed must be adhered to.
- 10.8 Requests for authorisation will in the first instance be considered by officers under delegated powers. Any request to authorise an unclassified film may however, be referred by the Licensing Officer at his/her discretion to the Licensing Sub Committee for determination.
- 10.9 Requests for authorisation must be submitted in writing at least 28 days before the proposed screening. If less than 28 days' notice is provided, no request to review an officer decision will be considered.
- 10.10 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 submission, precluding the need for objections by a responsible authority.
- 10.11 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.
- 10.12 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.
- 10.13 We will take extremely seriously any offence under the following sections of the Act:
- section 146 (selling or supplying alcohol to a child under 18 years)
 - section 150 (allowing a child under 18 years to consume alcohol on the premises)
 - section 151 (delivering alcohol to children)
 - section 153 (unsupervised sales by a person under 18 years)
- 10.14 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.

- 10.15 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.
- 10.16 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.
- 10.17 We will encourage responsible under-18 discos, providing 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 children.
- 10.18 In accordance with the guidance, this authority designates the Local Safeguarding Children Board as the body judged to be competent to act as the responsible authority in relation to the protection of children from harm.

11. Conditions

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 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.

12. Dispersal Policies

- 12.1 We will take note of any voluntary dispersal policy at premises and we reserve the right to impose dispersal policy conditions upon a licence following relevant representations.
- 12.2 The dispersal 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.

13. Enforcement

- 13.1 Enforcement action will be undertaken by authorised persons as defined in the Act.
- 13.2 We have developed an enforcement protocol with Lancashire Constabulary and will develop further protocols with other enforcement agencies if appropriate.
- 13.3 We expect that designated premises supervisors and personal licence holders will ensure that 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 licence holder as a serious matter.
- 13.4 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 responsible authority making the order to review the premises licence, whether or not the order is confirmed by a Court under section 162.
- 13.5 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 Service 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.
- 13.6 Officers of the licensing unit will be authorised for the purposes of the Act under section 13. Subject to future changes in the law, officers will not instigate reviews or objections under the Act but will be authorised to report substantive offences for criminal prosecution under section 186.
- 13.7 Officers of the authority, such as Environmental Health officers, Health and Safety inspectors and Development Control officers are authorised persons under section 13 of the Act. The Health and Safety Unit, Development Control and Environmental Health are responsible authorities under the Act.
- 13.8 Responsible authorities will have the right to object to licence applications or instigate licence reviews. Any such representations will be treated in precisely the same way that representations from interested parties would be treated.
- 13.9 Any protocols established with other enforcing authorities will provide for the targeting of agreed problem and high risk premises which require greater attention, whilst providing a lighter touch for low risk premises which are well run.
- 13.10 The principle of risk assessment and targeting will prevail. Inspections will not be undertaken routinely but when and if they are judged necessary.

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.

15. Special Occasions

- 15.1 We will not seek to restrict any National orders made by the Secretary of State with regard to any special occasion.

16. Designated Premises Supervisors and Personal Licence Holders

- 16.1 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.
- 16.2 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 premises licence where the personal licence holder is named on the licence as the premises supervisor.
- 16.3 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.
- 16.4 Where the licence authorises the supply of alcohol for consumption on the premises, 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.
- 16.5 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.
- 16.6 A person who is a personal licence holder must instruct staff and authorise the sale of alcohol.
- 16.7 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.
- 16.8 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.

17. Premises Licence Reviews

- 17.1 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.
- 17.2 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.

17.3 Following an application for review of a premises licence or objection, we will encourage the parties to a review to mediate 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.

18. Club Premises Certificates

18.1 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.

18.2 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.

18.3 In determining whether a club is established and conducted in good faith, the Service 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.

18.4 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.

19. Public Information

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

19.2 We will require the holder of a premises licence or club premises certificate to prominently display in the premises, whilst licensable activity is taking place, the licence/certificate summary, or a certified copy and statutory notices in accordance with the Act. This informs the public as to whether the premises are licensed, the licensable activities allowed and the name of the designated premises supervisor.

20. Temporary Events

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

20.2 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 nor 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).

20.3 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.

20.4 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.

20.5 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.

20.6 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

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

21. Prohibition of the sale of alcohol at garages or service areas

21.1 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.

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.

Appendix 1 – Table of exercise and delegation of functions

The licensing authority will exercise and delegate functions in accordance with the following table.

Matter to be dealt with	Full Committee	Sub Committee	Licensing Officers
Application for personal licence		If an objection is received	If no objection is received
Application for premises licence/club premises certificate		If relevant representations are received	If no relevant representations are received
Application for provisional statement		If relevant representations are received	If no relevant representations are received
Application to minor vary a premises licence/club premises certificate			All cases
Application to vary a designated premises supervisor		If an objection is received	If no objection is received
Application to transfer a premises licence/club premises certificate		If an objection is received	If no objection is received
Application to disapply the mandatory condition for the requirement of a DPS on a licence for a community premises		If an objection is received	All other cases
Request to be removed as DPS			All cases
Application for interim authority		If an objection is received	All other cases
Application to review premises licence/club premises certificate		All cases	
Ensuring applications and representations are not irrelevant, repetitious, vexatious or frivolous			All cases
Determinations of police representation to a temporary event notice		All cases	
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	

Appendix 2 – Responsible Authorities

(this does not form part of the policy and is included for convenience only)

Lancashire Constabulary

Divisional Licensing Office
Colne Police Station
Craddock Road
Colne
BB8 0JU

Lancashire County Council

Area Child Protection Committee
Social Services Directorate
P.O. Box 162
East Cliff County Office
Preston
PR1 3EA.

Lancashire Fire and Rescue Service

Fire Safety Officer
Queens Square
Rawtenstall
Rossendale
BB4 6AB

Lancashire County Council

Trading Standards
58-60 Guildhall Street
Preston
Lancashire
PR1 3NU

Rossendale Borough Council

Environmental Health – Noise Pollution
Stubbylee Hall
Stubbylee Lane
Bacup
OL13 0DE

(A) Rossendale Borough Council

Environmental Health – Health &
Safety
Stubbylee Hall
Stubbylee Lane
Bacup
OL13 0DE

OR

*(B) The Health and Safety Executive,
dependant upon the premises.
Health and Safety Executive,
Marshall House, Ringway,
Preston, PR1 2HS.*

Appendix 3 – Local Safeguarding Children’s Board

(this does not form part of the policy and is included for convenience only)

Lancashire County Council

Directorate for Children & Young People

Children’s Integrated Services

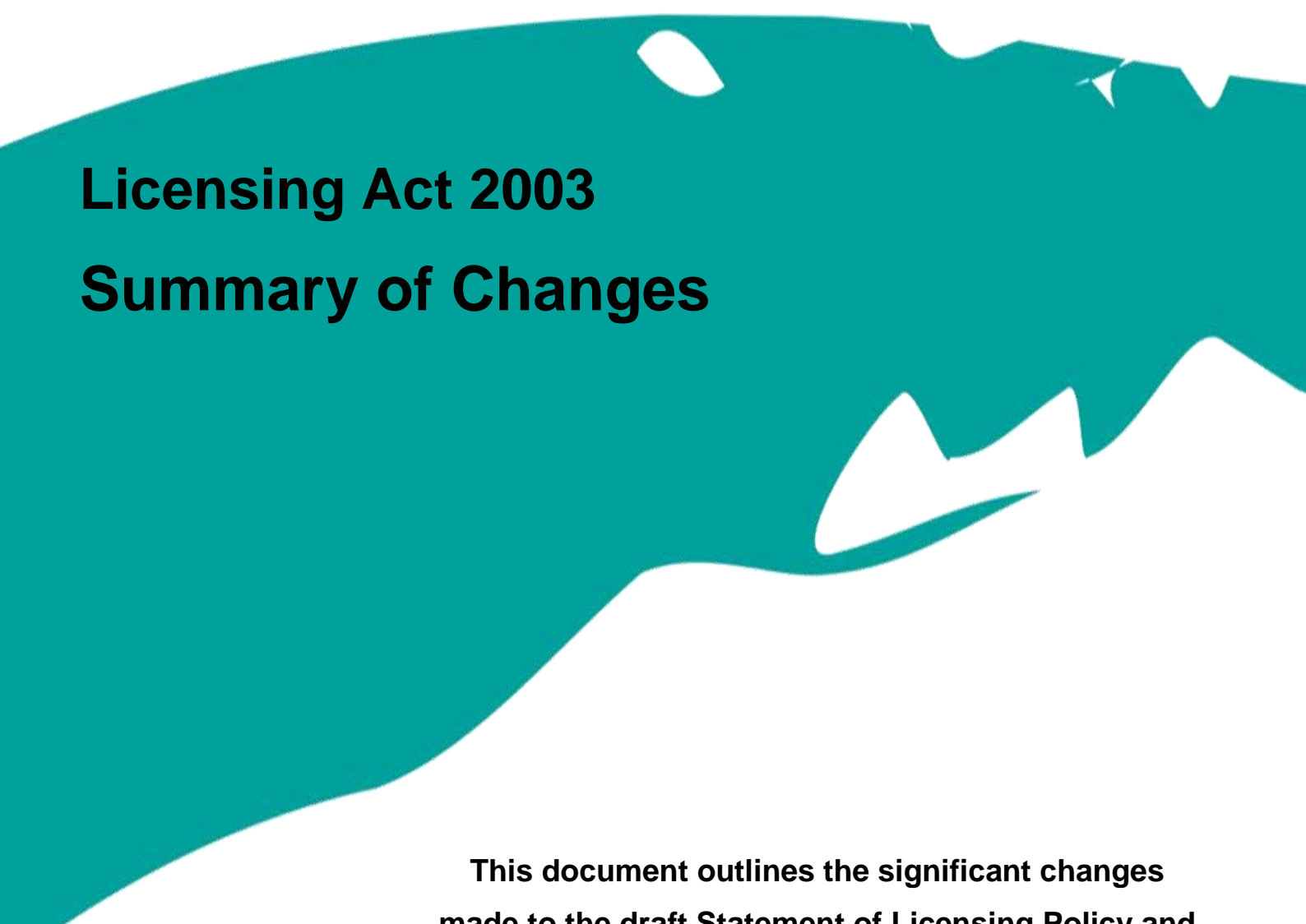
P O Box 61

County Hall

Preston

PR1 8RJ

DRAFT



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 7th January 2011 to 6th 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 7th January 2011 to 6th January 2014. The draft policy can be viewed on the Council website at www.rossendale.gov.uk.

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

Rossendale Borough Council
Licensing Unit
Licensing Policy Consultation
Town Centre Offices
Lord Street
Rawtenstall
Rossendale
BB4 7LZ

Telephone: 01706 238 648

Email: licensing@rossendalebc.gov.uk

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 13th September 2010 to 27th October 2010. Consultation responses must be made in writing to the address above and must be received by the end of 27th 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.

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 29th 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.