

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 11 January 2017
Report of: Head of Community and Customer Services
Title: Licensing Act 2003 Annual Report for 2016

1.0 SUMMARY

- 1.1 The Council is responsible under the Licensing Act 2003, which came into force on 24 November 2005, for licensing the sale of alcohol and provision of regulated entertainment and late night refreshment within the Borough. This is the tenth annual report on the operation of the Act within the Borough.
- 1.2 Watford's continuing economic confidence seems to be reflected in the leisure and retail sector, with several new premises being licensed during 2016, a further increase in the number of premises licensed within the Borough overall, and more licence applications expected in the coming year.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing Committee notes the report.

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Report approved by:

Alan Gough, Head of Community and Customer Services

3.0 Introduction

- 3.1 Under the Licensing Act 2003, Watford Borough Council has responsibility for licensing alcohol, regulated entertainment and late night refreshment. This encompasses the determination, grant, administration and enforcement of premises licences, club premises certificates, personal licences and temporary event notices to authorise those activities to take place.
- 3.2 The Act requires the licensing authority to produce a statement of licensing policy in consultation with specified stakeholders. Any decisions in relation to the Act must be in furtherance of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. The licensing authority is required to have regard to statutory guidance issued by the Secretary of State in the exercise of its functions.
- 3.3 There were 327 licensed premises (including 19 qualifying clubs) licensed under the Act as of 20 December 2016. This is an increase of 7 from 2015.
- 3.4 According to the last published national statistics¹ there were 210,000 licensed premises (up from 204,300 as of March 2014, when the last figures were collated) which was a 3% increase, and 14,700 club premises certificates (down from 15,400) which was a 5% decrease.
- 3.5 When studying the figures for Watford, it can be seen that the total number of licensed premises is still growing, although slightly less than the national average. It is noted that we have not lost any club premises which bucks the national trend.
- 3.6 In 2016 there were 12 hearings scheduled, of which 7 were withdrawn (vacated).

	2009	2010	2011	2012	2013	2014	2015	2016
Scheduled hearings	21	28	27	31	26	10	12	12
Vacated hearings	7	13	7	11	7	1	5	7

- 3.7 Of these hearings, the Police submitted representations against three applications (compared to eight in 2015, seven in 2014, and one in 2013). Residents submitted representations against six applications (compared to nine in 2015). One representation was submitted by a Councillor (compared to none in 2015). The licensing authority submitted representations against three applications (compared

¹ Alcohol and late night refreshment licensing England and Wales 31 March 2016 (<https://www.gov.uk/government/publications/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016>)

to seven in 2014 and again in 2015). No representations were received from any other responsible authority, including Environmental Health, which concluded in a hearing.

- 3.8 The decision for the licensing authority to submit representations is not made lightly, and officers are most likely to submit representations against applications falling within the town centre or one of the council’s sensitive licensing areas. The representations submitted by officers in 2016 were all submitted against applications which fell within a sensitive licensing area.
- 3.9 There is a continuing trend of hearings being vacated, and for the first time, more than half of scheduled hearings were vacated. Even when a hearing does proceed, officers still continue to encourage mediation and discussion, even right up until the hearing itself, as happened in a recent hearing in November. This should be seen as a positive reflection of the success and strength of the current Statement of Licensing Policy and officers’ skills in negotiating agreeable applications consistent with the aspirations for the Borough and its residents.
- 3.10 With the changes to the licensing team over the last 12 months, including a drive in making the team more approachable to businesses, it is anticipated that we will be able to give more pre-application advice to businesses, whether they already hold a licence or not, potentially decreasing the need for the licensing authority, or other responsible authorities, to submit formal representations and instead engage in dialogue before an application is submitted.
- 3.11 26 new premises licences were applied for in 2016 (compared to 27 in 2015, 15 in 2014, 20 in 2013, 8 in 2012, 18 in 2011 and 12 in 2010) in respect of:

<p><i>Alcohol on-sales and other licensable activities (13 applications in 2015)</i></p>	<p>Red Lion Gabriel’s Bakery, 67 Vicarage Road * Gabriel’s, 69 Vicarage Road * Jimmy’s World Grill & Bar Melo Restaurant Las Iguanas Five Guys Gabriel's Bakery, 65 Vicarage Road Gabriel’s, 69 Vicarage Road (2nd application) * Gabriel's Bar & Lounge, 65 Vicarage Road (2nd application) D20 Board Game Café Zara Mangal TGI Friday’s</p>
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	Premier Inn DF Mexico Byron Yo! Sushi
<i>Alcohol off-sales (seven applications in 2015)</i>	SMAK Watford Convenience Store Maria Candies TBHI Drinks on the Run DKSR Supermarket
<i>Late-night refreshment only (seven applications in 2015)</i>	Pepe's Piri Piri Quizno's
<i>Regulated entertainment only (no applications in 2015)</i>	None made this year

* Application subsequently withdrawn

3.12 Licence Variations

The table below sets out the number of licence variations received, both for minor variations and for full licence variations.

Five full variations received representations, with two requiring a hearing. Of the three applications where no hearing was held, on two occasions the objectors and the applicant were able to address concerns without the need for a hearing, and the final application was withdrawn. One minor variation was withdrawn, but all others were granted.

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Full variations	20	11	12	37	9	8	22	6	10
Minor variations*	N/A	5	13	19	30	29	10	19	6

* minor variations only came into force in July 2009

3.13 Changes to Licences

The table below sets out the number of licence transfers, changes of designated premises supervisors (DPS), and interim authorities received up to 20 December 2016. No objections were lodged by the police to any transfer or change of DPS.

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Licence transfer	27	26	25	28	23	24	23	30	29
Variation to designated premises supervisor	91	94	55	80	50	78	50	59	57
Interim authority notices	2	2	0	3	0	0	1	0	0

3.14 Although there has not been an increase in applications, we are expecting further applications, particular in relation to the Charter Place development where there are five restaurant units which are not yet assigned to tenants and may require licensing, as well as the cinema itself. The figures for all applications are roughly in line with previous figures, and the figures on their own are not an immediate cause for concern. Last year officers advised that we would continue to monitor the licensing policy as a result of a fall in licence variations, and it was acknowledged that this could mean that most premises already had maximum hours under the licensing policy. This figure has increased slightly this year, and so this may be a statistic which is in flux, and it is noted that six of the nine full variations which were submitted were requesting additional hours, but officers will continue to monitor the effectiveness of the licensing policy.

3.15 Surrendered Licences

The table below shows the number of surrendered licences:

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
3*	4*	3*	9	8	5*	6*	8	5*	10*	6*

* new licences were also applied for in lieu of some of those that were surrendered

3.16 There were 6 premises licences surrendered in 2016. Of those licences which were surrendered, three premises have obtained new licences. Of the other premises, one is already open for a different, non-licensable purpose, and the final two premises are currently empty. Any person wishing to move into these empty premises and provide licensable activities will need to obtain new licences.

There were also 7 premises licence which lapsed in 2016. Of these licences, two lapsed because the licence holders entered administration, three lapsed upon entering liquidation, and two lapsed because the licence holders were declared bankrupt. Of these licences which lapsed, two have since obtained new licences and have reopened. Two were reinstated under the provisions of the Licensing Act 2003, allowing these premises to trade again, but one of these licences was later surrendered. One premises is currently operating under different owners but not

providing licensable activities. The remaining properties are currently empty, and any parties wishing to move into this empty premises and provide licensable activities will need to obtain a new licence.

3.17 Appeals

There have been no appeals lodged in relation to an application under the Licensing Act 2003 in 2016.

3.18 Temporary Event Notices

The chart below indicates the number of temporary event notices (TENs) received each year by the council, 85 of which were for alcohol sales alone. As with other figures in this report, the figures for 2016 are only up to 20 December 2016. No TENs were required to go to a hearing because of representations, although the Police did submit formal representations against one TEN, with the TEN being withdrawn before a hearing was required. Three further TENs were withdrawn following discussions with the Police, but did not involve a hearing being arranged.

Year	Number of TENs Received
2005	88*
2006	188
2007	218
2008	237
2009	243
2010	251
2011	237
2012	206
2013	281
2014	325
2015	323
2016	342

* Only relates to 24 November (when the Act commenced) to 31 December 2005

3.19 TENs continue to be primarily given in respect of premises that are already licensed, but the gap between licensed premises and non-licensed premises has closed considerably over the last year. 100 TENs were given by community premises, such as schools, churches and community centres, which is double the number given last year (where 50 TENs were given by such premises). The most popular months for TENs remain those with bank holidays (such as May and August) to be used as extensions to existing licences, with December being the most popular month. 20 notices were rejected as being invalid (compared to ten in 2015) and nine were withdrawn (six in 2015). Three notices were withdrawn because of concerns from the Police as mentioned above, with the others being

withdrawn because the TENs were no longer needed.

3.20 Personal licences

The table below shows the numbers of personal licences issued since 2005. There were no applications referred to the Licensing Sub-Committee owing to police representations during the year.

Year	Number of personal licences
2005	303
2006	115
2007	74
2008	80
2009	81
2010	72
2011	62
2012	80
2013	85
2014	66
2015	69
2016	79

3.21 As far as officers are aware, none of the personal licences issued by the licensing authority have been revoked by the courts following convictions for a relevant offence. However there remain concerns nationally that not all licensees appearing before criminal courts disclose the fact they are personal licence holders (as legally obliged to), and that the courts do not properly understand their powers in such circumstances.

3.22 **Statement of licensing policy**

The table below sets out applications for new and varied premises licences within the town centre covered by policy LP3 Creating a Family-Friendly Town Centre, although it should be borne in mind that the area was slightly enlarged in January 2011.

	Applications	Hearings not required	Applications where cumulative impact policy did not apply ²	Appeals against sub-committee's decisions
2005/6	27	3	12	3
2007	10	1	5	0

² This is because either alcohol sales were not the principal activity or where the application was not intended to extend the hours beyond the suggested hours under policy LP2.

2008	14	2	4	2
2009	11	1	0	1
2010	7	0	1	1
2011	8	2	0 ³	0
2012	6	5	1	1
2013	4	3	3	0
2014	3	0	3	0
2015	20	11	4	2
2016	17	13	15	0

3.23 This table indicates that four applications resulted in a hearing. However, officers can confirm that only one application resulted in a hearing. One application was withdrawn (therefore it was neither granted nor resulted in a hearing), and two applications under policy LP3 have only recently been made, and so were not determined at the time of writing this report

3.24 According to Government figures, as of 31 March 2016 (the latest available) there were 215 cumulative impact areas in England and Wales.

3.25 Sensitive Licensing Areas

The three Sensitive Licensing Areas were introduced in 2011 to recognise community concerns about particular pockets of licensed premises. In 2016, six new licence applications were received in the sensitive licensing areas (two in Market Street, two in Whippendell Road, one in Queens Road, and one in St Albans Road), and one variation application was received (in Whippendell Road). Officers were involved in negotiating additional conditions regarding the availability of super strength alcohol, and to address any concerns over street drinkers being attracted to these premises. The licensing authority submitted representations against three applications. Two were refused, and one was granted upon acceptance of conditions.

3.26 Compliance and Enforcement

The council's Business Compliance Officer, Environmental Health Officers, Police (including Special Constables) and Trading Standards have continued to work proactively and reactively to ensure compliance with licensing legislation. As shown below the number of complaints received about premises was very low. This is seen as very positive indication of the controls, management and proactive approach taken towards compliance by both officers and operators in Watford. The use of the Best Bar None award scheme is an example of a tool to proactively improve standards without the need for formal enforcement action. Officers continue to support PubWatch, as well as meeting premises on request to discuss any issues. At the same time any issues of non-compliance that officers become

³ New exceptions set out in policy LP3 applied to applications from January 2011

aware of through regular visits and patrols are dealt with swiftly and in accordance with the council's published enforcement policy.

3.27 The licensing authority continues to receive a small number of complaints about activities which are regulated by the Licensing Act 2003. Out of 122 complaints in total during 2016 (down from 149 in 2015), only 12 were relevant to the Licensing Act (12 in 2015). After investigating these complaints, enforcement action was taken against two premises, with one licence holder being issued a formal warning, and one licence holder accepting a formal caution, both for breaching their licence conditions. No formal enforcement action was taken in any other case required, although contact has been made with all premises and their management to work through the issues raised.

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Premises opening hours	4	1	4	1	1	0	1	2	5
Door supervisors	2	0	2	2	1	2	1	0	1
Noise from premises	11	5	8	5	1	4	0	1	7
Underage sales	4	3	0	2	1	2	1	1	0
Advertisements	0	2	0	0	1	1	1	0	0
Unlicensed activities/other	1	1	5	2	1	0	1	4	2
Public safety	0	0	1	3	0	0	1	0	0
Child protection	1	0	1	0	0	0	1	1	2
Crime and disorder	3	3	1	2	0	0	1	3	2

3.28 Licensing Reviews

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Number of review applications	1	0	0	3	0	3	4	1	0	0

3.29 There were no reviews submitted within 2016. As mentioned in 3.27 although complaints were received about premises, we have been able to address these concerns through working with businesses without the need for complainants or any responsible authorities resorting to a review.

3.30 **Looking forward**

As of 1 April 2017, there will be changes implemented to business rates which will have implications for both licensed premises and the licensing authority. This will be the first time in 7 years that the level of business rates paid by businesses has been reviewed. The majority of licensed premises are scheduled to benefit from

these changes, although the Government are still due to respond as to whether there will be any changes to how business rates are calculated. Under the current system, over half of premises will see no increase to their business rates, and nearly a third (31%) of licensed premises are actually due to see their rateable values decrease. Business will also benefit from the extension of business rate relief. Businesses with a rateable value of up to £12,000 will be entitled to 100% rate relief, with businesses with a rateable value of between £12,000 and £15,000 being entitled to a tapering rate relief. The current government proposals are also to allow businesses with a rateable value of up to £51,000 to benefit from small business relief, meaning that they will be paying less as a proportion than businesses with a higher rateable value. The vast majority of licensed businesses (at least 65%) have a rateable value of less than £51,000, with a high proportion falling below £15,000, and so stand to benefit from lower business rates than under the current business rates scheme.

3.31 It should be noted that the annual licence fee paid by businesses in respect of their Premises Licences and Club Premises Certificates is based upon the rateable value of the particular premises. Based upon the recalculated rateable values, the amount that the licensing authority receives in annual fees is due to decrease from £74,775 to £70,300. Members are reminded that the annual fee is set in legislation, and is to fund the activities of the licensing authority in regards to carrying out its duties under the Licensing Act 2003 (excluding enforcement against unlicensed operators). These annual fee figures are based upon the current number of issued licences, and as mentioned elsewhere in this report, there are expectations of further licence applications, particularly in relation to the Charter Place development.

3.32 In March 2016, the Government published its Modern Crime Prevention Strategy⁴, which included measures and proposals which could make an impact in 2017 and beyond, and does focus upon alcohol as a driver of crime. The strategy lays out that preventing alcohol-related crime and disorder requires a three-pronged approach:

- Improving local intelligence so that decisions taken about the sale of alcohol and the management of the evening and night time economy are based on reliable data and the latest evidence. For example by publishing information about where alcohol-related crime and disorder is occurring on police.uk.
- Establishing effective local partnerships where all those involved in the operation and management of the evening and night time economy work, so that people can enjoy a safe night out without fear of becoming a victim of alcohol-related crime or disorder, enabling local economies to grow. Including by providing support to local authorities, the police and health partners to create safe spaces.

⁴ <https://www.gov.uk/government/publications/modern-crime-prevention-strategy>

- Equipping the police and local authorities with the right powers so they can take swift and decisive action after problems have occurred and to prevent their repeat. For example we will future-proof changes to the police workforce by giving civilian staff powers of entry to enter and inspect licensed premises.

- 3.33 Officers already have a good working relationship with other external authorities, particularly the Police, and there are data sharing protocols already in place. We will continue to liaise closely with our partners in identifying issues, and providing advice on the tools available through the licensing regime. The town centre has again received accreditation under the Purple Flag scheme for the night time economy. With regards to regulatory powers, the Government are reviewing the current regulatory toolkit, and officers will continue to watch out for updates.
- 3.34 A House of Lords Select Committee is currently considering the Licensing Act 2003 and its effectiveness, and the Committee is expected to report its findings to the Government in April 2017. Members may be aware that the licensing authority were invited to submit written evidence to this Committee, and our response, which received contributions from officers and the Chair and Vice-Chair of the Licensing Committee, can be found at appendix 1. Officers will wait to see what actions the Committee propose, and will assess what these measures could mean for Watford once they have been published.
- 3.35 Parliament is currently considering the Policing and Crime Bill 2016⁵, which is proposed to contain further amendments to the Licensing Act 2003 if it is passed. It is proposed to amend the definition of alcohol, to include alcohol in any state, following concerns raised to the Government over the rise of ‘cloud’ bars, whereby alcohol was vapourised and pumped into a room, where customers inhaled the alcohol. This has not been a concern within Watford.
- 3.36 The Policing and Crime Bill also proposes to give Cumulative Impact Policies a statutory footing. Members are reminded that Watford does have a cumulative impact policy, which is policy LP3 of the councils licensing policy (Creating a Family-Friendly Town Centre). By giving such policies a statutory footing, they become a formal part of the licensing process, and will assist in strengthening controls and addressing the problems caused through a saturation of any particular type of premises. However, such policies will be required to be reviewed every three years by the Licensing Committee, and the evidence both for and against continuing with such a policy will need to be assessed. In a briefing from the Home Office, it was confirmed that the current policy does not need to be reviewed, but must be reviewed no later than three years after the relevant section of the Policing and Crime Act is implemented.

⁵ <http://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0072/17072.pdf>

- 3.37 The Policing and Crime Bill also proposes to make changes to the Late Night Levy. Watford has not adopted such a levy, and officers would advise that there are no immediate calls for a levy to be introduced. The Late Night Levy is a levy on premises licensed for the sale of alcohol for consumption on the premises between 00:00 and 06:00. Any money received under this levy is split between the licensing authority and the Police, with 70% of all revenue going to the Police. The levy must apply to the whole of the licensing authority's area. The proposals around levies include being able to limit the target area of the levy to a specific geographic area (such as a town centre) instead of the whole borough, extending the levy to takeaways, allowing the Police to formally request a licensing authority to consider a levy, and requiring the Police and licensing authority to publish details of how all money raised through a levy is spent.
- 3.38 It is mentioned earlier in this report that there were national concerns that not all licensees appearing before criminal courts disclose the fact they are personal licence holders (a statutory requirement) and that the courts do not properly understand that they have a right to suspend a personal licence or require that a personal licence be forfeited where a licensee is convicted of a 'relevant offence'. The Policing and Crime Bill contains a proposal that licensing authorities be given the power to suspend or revoke a personal licence when they are made aware of a licence holder having committed an offence. There will need to be increased data sharing between the courts, the Police, and licensing authorities in order for this information to come to light, but there are plans to close this perceived loophole which could allow irresponsible licensees to retain their personal licences, and potentially remain as a designated premises supervisor for a premises.
- 3.39 There are measures contained within the Immigration Act 2016 which will have an impact on licensing and processing licensing applications. It is likely that the relevant sections of the Act will be commenced in April 2017, although some provisions are already in force for other licensing regimes, particularly with regards to taxi licensing. The Act introduces immigration enforcement as a new responsible authority, meaning that they could object to licence applications if they have any concerns over applicants for licences and either their right to stay and work in the country, or over the employment of illegal workers. They will also have the power to call for a review of a Premises Licence or Club Premises Certificate if illegal workers have been employed at that premises. Individual applicants for Premises Licences or Personal Licences will also be required to prove their right to work when submitting these applications.
- 3.40 Officers do not envisage that the Immigration Act will have a significant impact on the work of the licensing authority. We are already notified when it is suspected that immigration offences may have been committed at a licensed premises, and

such occurrences have been rare. Immigration enforcement teams only take action based upon intelligence, and the lack of action against licensed premises in Watford is a positive sign in that there is not widespread concern over the employment of illegal workers within Watford. Within the last year, officers have also met with our local field intelligence officer for immigration enforcement, and so we have good links with the Home Office and immigration enforcement. Officers are experienced in checking identification documents in relation to applicants for taxi licences, and so there is no requirement for extra resources or training in assessing an applicant's right to work and residence status for applications under the Licensing Act.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 There are no direct financial implications arising from this report.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Democracy and Governance comments that there are no legal implications arising from this report.

Appendices

Appendix 1 – Letter to the Select Committee on the Licensing Act 2003

Background Papers

File Reference

None