

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 17 January 2018
Report of: Head of Community & Environmental Services
Title: Licensing Act 2003 Annual Report for 2017

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 eleventh 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 2017, a further increase in the number of premises licensed within the Borough overall, and more licence applications expected in the coming year. However, it is noted that there has been a decrease in some applications, and these figures will be monitored.

2.0 RISKS

- 2.1 There are no risks associated with this report, as it is for information only.

3.0 RECOMMENDATIONS

- 3.1 That the Licensing Committee notes the report.

Contact Officer:

For further information on this report please contact:

Austen Young (Senior Licensing Officer) on telephone extension: 8474, email:
austen.young@watford.gov.uk

Report approved by:

Alan Gough, Head of Community & Environmental Services

4.0 Introduction

- 4.1 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.
- 4.2 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.
- 4.3 There were 336 licensed premises (including 19 qualifying clubs) licensed under the Act as of 31 December 2017. This is an increase of 9 from 2016.
- 4.4 According to the last published national statistics¹ there were 211,500 licensed premises (up from 210,400 as of March 2016) which was a 1% increase, and 14,300 club premises certificates (down from 14,700) which was a 3% decrease.
- 4.5 When studying the figures for Watford, it can be seen that the total number of licensed premises is still growing at slightly above the national average. It is also noted that we have not lost any club premises which bucks the national trend.
- 4.6 In 2017 there were 10 hearings scheduled, of which 6 were withdrawn (vacated).

	2010	2011	2012	2013	2014	2015	2016	2017
Scheduled hearings	28	27	31	26	10	12	12	10
Vacated hearings	13	7	11	7	1	5	7	6

- 4.7 Of these hearings, the Police submitted representations against three applications (compared to three in 2016, eight in 2015 and seven in 2014). This includes the licensing review that was brought by the Police, details of which will follow later in the report. Residents submitted representations against four applications

¹ <https://www.gov.uk/government/publications/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2017/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2017>

(compared to six in 2016 and nine in 2015). One representation was submitted by a local community centre. One representation was submitted by a local ward Councillor (compared to one in 2016 and none in 2015). Environmental Health submitted representations against two applications (compared to none in 2016). The licensing authority submitted no representations which were required to be heard before a sub-committee (compared to three in 2016, seven in 2015 and seven in 2014). One representation was received from Public Health, a Hertfordshire County Council Function. No representations were received from any other responsible authority which concluded in a hearing.

- 4.8 Although the licensing authority submitted no representations that ended up in a hearing, officers have been involved in discussions with applicants but have been successful in their negotiations meaning that officers never had to present their concerns to a sub-committee.
- 4.9 There is a continuing trend of hearings being vacated, and, in a repeat of last year, 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. This should be seen as a continuing positive reflection of the success and strength of the current Statement of Licensing Policy and officers' skills in negotiating agreed applications consistent with the aspirations for the Borough and its residents as stated in the Licensing Policy.
- 4.10 Under the umbrella of Watford 2020, the licensing team are continuing the drive towards offering chargeable pre-application advice to businesses similar to the service offered by Planning. It should encourage the shift to conversations being had before the application is submitted rather than after; this in turn should reduce costs for the council by reducing workload for contested applications and similarly it will also save costs to business. The application advice and support in completing applications forms is designed to reduce the avoidable costs to businesses who generally use agents and solicitors in Licensing Act applications. Using the cost effective solution of the council service they will hopefully understand better the potential for business development within the policy constraints and will submit applications that can be accepted first time. It will also help the council to understand better the business pressures and aspirations and to take account of these in reviewing our service provision and policy content.
- 4.11 23 new licences were applied for in 2017 (compared to 26 in 2016, 27 in 2015 and , 15 in 2014) in respect of:

<i>Alcohol on-sales and other licensable activities (17 applications in 2016)</i>	Cabana, Intu Thaikhun, Intu Platform, Station Road
---	--

	Twisted Monkey, The Parade Hydeout, The Parade Gabriel's Bakery, 69 Vicarage Road Hollywood Bowl, Intu Oktoberfest, Park Avenue Kitchen@Cassiobury, Langley Way Smoky Boys, St Albans Road M Bar, 48-50 High Street
<i>Alcohol off-sales (7 applications in 2016)</i>	Harwoods Convenience Store, Harwoods Road Salveo, Croxley Business Park Groszek, 119 St Albans Road Georgiana, St Albans Road Mr Butcher, King Street Watford Convenience Store, Market Street Haute Spot, The Parade Polski Sklep, High Street
<i>Late-night refreshment only (2 applications in 2016)</i>	Pepe's Piri Piri, Whippendell Road Pizza Planet, Riverside Road
<i>Regulated entertainment only (no applications in 2016)</i>	No applications made
<i>Club premises certificates (no applications in 2016)</i>	Everett Rovers Football Club (invalid application) Everett Rovers Football Club (valid application)

4.12 Licence Variations

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

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Full variations	11	12	37	9	8	22	6	10	4
Minor variations	5	13	19	30	29	10	19	6	13

4.13 Minor variations can be used to add or remove conditions from a licence, to confirm small amendments to a licence plan (for example, following a refurbishment), or, in very limited circumstances, to change the hours on a licence.

Minor variations can never be used to increase alcohol hours on a licence. The majority of minor variations this year were for amendments to plans only (seven applications). Of the other minor variation applications, five were to amend the conditions of their licences, one was to amend their opening hours to match their licensed hours, and one was to both change the layout of the licence plan and to add new conditions.

Full variations are required for any variation sought to an existing licence which can't be dealt with as a minor variation, including extending alcohol hours, or substantially changing the licensed premises. All four full variation applications were seeking increased hours, with one application also seeking an increase in their licensed area.

No variations were the subject of a hearing, and no minor variations were refused.

4.14 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 2017. No formal objections were lodged by the police to any transfer or change of DPS.

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Licence transfer	26	25	28	23	24	23	30	29	23
Variation to designated premises supervisor	94	55	80	50	78	50	59	57	49
Interim authority notices	2	0	3	0	0	1	0	0	0

4.15 Surrendered Licences

The table below shows the number of surrendered licences:

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
4*	3*	9	8	5*	6*	8	5*	10*	6*	10*

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

4.16 There were 10 premises licences surrendered in 2017. Of those licences which were surrendered, one premises has since obtained a new licence under a new owner. Of the other premises, two of the surrendered licences were effectively made redundant when the licence holder obtained new licences, and so were surrendered without impacting upon the business. One licence was surrendered,

but then reinstated under the provisions of the Licensing Act by the property company looking after the premises in order to market the premises to a new tenant. Two premises are being used for non-licensable purposes, and the final four premises are currently empty.

4.17 There were also three premises licences which lapsed in 2017 – one off-licence, one bar, and one premises that wanted to sell alcohol alongside spa treatments. Two lapsed because the licence holders were companies and the companies were dissolved. One licence was reinstated under the provisions of the Licensing Act by the landlord, and the landlord is now benefitting from the licence for his own business. The other two premises are currently empty.

4.18 Appeals

There have been no appeals lodged in relation to an application under the Licensing Act 2003 in 2017.

4.19 Temporary Event Notices

The chart below indicates the number of temporary event notices (TENs) received each year by the council, 93 of which were for alcohol sales alone. No TENs were required to go to a hearing because of representations, although the Police did submit formal representations against one TEN, but negotiations between the Police and the applicant meant that no hearing was needed.

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
2017	352

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

4.20 The majority of TENs continue to be given in respect of premises that are already licensed, but the gap between licensed premises and non-licensed premises has,

like in 2016, reduced. 113 TENs were given by community premises, such as schools, churches and community centres, which is very similar to last year's figure (which was 100) and more than double the number given in 2015 (which was 50). The number of TENs being submitted by licensed premises is remaining static.

- 4.21 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. 12 notices were rejected as being invalid (compared to 20 in 2016) and six were withdrawn (nine in 2016). One was withdrawn following concerns over the event which were raised by the licensing authority, Police, and Environmental Health after the TEN had been approved, and after the event had been advertised when it became clear that the description of the event in the TEN and the description of the event as advertised were different. Four were withdrawn because the notices were no longer needed, with three being withdrawn by one person because they no longer worked for that particular premises.

4.22 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
2017	64

- 4.23 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.

4.24 Under the Policing and Crime Act 2017², the licensing authority now has the power to revoke or suspend personal licence where the licence holder has been convicted of a relevant offence under the Act, or has been required to pay an immigration penalty. The licensing authority has not been in receipt of any information relating to our licence holders that has required the exercise of this power.

4.25 **Statement of licensing policy**

The table below sets out applications for new and varied premises licences within the town centre covered by the council's cumulative impact policy, known as 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 ³	Appeals against sub-committee's decisions
2005/6	27	3	12	3
2007	10	1	5	0
2008	14	2	4	2
2009	11	1	0	1
2010	7	0	1	1
2011	8	2	0 ⁴	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
2017	12	10	4	0

4.26 This table indicates that two applications resulted in a hearing. One of these applications was granted but with additional conditions after representations from the Police, and the second hearing was the review instigated by the Police.

4.27 According to Government figures, as of 31 March 2017 (the latest available) there were 223 cumulative impact areas in England and Wales.

4.28 Sensitive Licensing Areas

The three Sensitive Licensing Areas were introduced in 2011 to recognise

² See <http://www.legislation.gov.uk/ukpga/2017/3/part/7>

³ 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.

⁴ New exceptions set out in policy LP3 applied to applications from January 2011

community concerns about particular pockets of licensed premises. In 2017, three new licence applications were received in the sensitive licensing areas (two in St Albans Road, and one in Whippendell Road), and five variation applications were received (four in St Albans Road, and one in Queens Road). With regards to the new applications, officers held pre-application discussions with one application, which was submitted with sample conditions lifted from the pool of model conditions which were appropriate to their operation. Officers did not explicitly intervene on the other two new licence applications, but in these cases it was because the applicant had agreed to amend their applications following discussions with the Police and Environmental Health. With regards to the variations, four applications were for changes to the layout of the premises only and there were no risks identified with these changes, and officers were involved in amending the alcohol times for the final variation under the fact that the application was originally requesting alcohol at significantly different times in comparison to other similar premises in the area. With the exception of one application, which is still pending determination at the time of writing this report, all of the applications mentioned above were granted without the need for a hearing.

4.29 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 previous use of the Best Bar None award scheme, and now the integration of the BID service excellence awards 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. It should also be added that the town centre has again been successfully awarded the Purple Flag in recognition of the town's night-time economy. At the same time any issues of non-compliance that officers become aware of through regular visits and patrols are dealt with swiftly and in accordance with the council's published enforcement policy.

- 4.30 The licensing authority continues to receive a small number of complaints about activities which are regulated by the Licensing Act 2003. Out of 128 complaints about all licensing functions in total during 2017 (up from 122 in 2016), only 19 were relevant to the Licensing Act (12 in 2016).

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Premises opening hours	1	4	1	1	0	1	2	5	0

Door supervisors	0	2	2	1	2	1	0	1	0
Noise from premises	5	8	5	1	4	0	1	7	7
Underage sales	3	0	2	1	2	1	1	0	1
Advertisements	2	0	0	1	1	1	0	0	0
Unlicensed activities/other	1	5	2	1	0	1	4	2	10
Public safety	0	1	3	0	0	1	0	0	0
Child protection	0	1	0	0	0	1	1	2	0
Crime and disorder	3	1	2	0	0	1	3	2	3

Of these:

- Officers brought prosecution proceedings against one premises for multiple breaches of their licensing conditions. The licence holder pleaded guilty to the offences on 29 November, and was fined £1350 for the offences, ordered to pay costs of £2500, and a victim surcharge of £30.
- Complaints about the management of two separate premises, including allegations of breaching their licence conditions, coincided with changes of management at the premises, and the new management have been informed of their licence hours and conditions.
- One premises alleged to be trading without a licence subsequently applied for, and obtained, a licence;
- Another premises found to be trading illegally by trading outside of their licensed area has now relocated the operation to within their existing licensed area; and,
- a further premises operating without their CCTV working have accepted a formal caution.

No formal enforcement action was taken in any other case although contact has been made with all premises and their management to work through the issues raised and the issues will remain on file for future reference.

4.31 Licensing Reviews

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Number of review applications	0	0	3	0	3	4	1	0	0	1

- 4.32 There was one review submitted and concluded within 2017. This review was brought by the Police over concerns of one major incident at a premises, which received national coverage after being posted on social media, and also concerns over other incidents which occurred at the premises very close to this one incident. The Police were not seeking the revocation of the licence, but did seek a reduction

in hours and additional conditions. The licence holder and the Police did engage in discussions and a number of conditions were provisionally agreed before the hearing, but there were still matters outstanding which the sub-committee had to determine, including a condition over the use of door supervisors, and the consideration of the reduction in hours. The sub-committee decided to strengthen the conditions of the existing licence, attach the conditions agreed between the parties, attach a condition requiring door supervisors, but did not reduce the hours. The licence holder did not appeal this decision. Officers can advise that they have not been notified of any concerns regarding this premises since the review.

4.33 **Looking forward**

In last year's report, officers mentioned that the first review in business rates for 7 years was likely to have an effect on licensed premises, with the vast majority of premises appearing to be in line for lower business rates, extended rate relief, and also likely to pay less in licence fees because licence fees are based upon the non-domestic rateable value of the premises. Officers can advise that the draft valuation figures, upon which our calculations were based, were not replicated in the final figures. While it has been noticed that most licensed premises were able to benefit from some reduction in business rates, the reductions were not significant and in most cases have not resulted in any changes to their licence fees, and in very few cases premises actually saw their licence fees increase.

4.34 It was also reported last year that a House of Lords Select Committee was due to publish a report into the Licensing Act 2003 in 2017. This report was published early in 2017⁵. The report highlighted what the Select Committee had considered and suggested areas where legislative reform was encouraged. The Government published its response to the Select Committee's report in November 2017⁶. Members may be aware that the licensing authority was invited to submit written evidence to this Committee, and a response was submitted with contributions from officers and the Chair and Vice-Chair of the Licensing Committee. A summary highlighting our submissions, the Select Committee's response, and the Government's response, can be found at Appendix 1.

4.35 The Government have accepted that there are areas of concern in the implementation and interpretation of the Licensing Act, but they also acknowledge that some of the Committee's recommendations are only the start of a discussion on improving the licensing regime. There will be some changes implemented through the Statutory Guidance, and there was already legislation in process to build upon areas such as late night levies cumulative impact policies. There is no late night levy in Watford, and officers advise that that there are still no immediate

⁵ <https://publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

⁶ <https://www.gov.uk/government/publications/the-government-response-to-the-report-from-the-house-of-lords-select-committee-on-the-licensing-act-2003>

calls for a levy to be introduced. Officers do consider the Government's refusal to review the licensing fee structure a missed opportunity, but under Watford 2020 we will continue to look at streamlining our processes and embracing technology to be more efficient.

- 4.36 The council's statement of licensing policy is due for renewal by November 2018. Officers will start reviewing this policy shortly. It will act as a tool to deliver the emerging vision for the town centre currently being developed by the Deputy Managing Director. The policy will require consultation with certain statutory bodies, licence holders, and residents. In our submission to the House of Lords Select Committee, the council suggested that cumulative impact policies should be given a statutory footing, This was also recommended by the Committee, and the Government had already taken steps to make cumulative impact policies subject to statute. Watford does have one cumulative impact policy, and this is the policy in place for the town centre (Policy LP3). This policy will need to be reviewed as required by the new legislation and evidence will need to be gathered from the Police, in order to assess whether this policy is still required, and to establish the evidence for this policy.
- 4.37 The House of Lords Select Committee highlighted concerns over the consistency of licensing committees, and the degree of training provided to councillors. Members will be aware that there are proposals going before Full Council later this month which will reform training for councillors and committee members, proving that Watford is ahead of the curve on the matter of training.

5.0 **IMPLICATIONS**

5.1 **Financial**

- 5.1.1 There are no direct financial implications arising from this report.

5.2 **Legal Issues** (Monitoring Officer)

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

Appendices

Appendix 1 – House of Lords Select Committee Report on the Licensing Act 2003

Background Papers

File Reference

None