

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 18 March 2013
Report of: Head of Environmental Services
Title: Licensing Act 2003 Annual Report for 2012

1.0 **SUMMARY**

1.1 The Council is responsible under the Licensing Act 2003 for licensing alcohol, regulated entertainment and late night refreshment within the Borough, which came into force on 24 November 2005. This is the sixth annual report on the operation of the Act within the Borough.

1.2 The national economic position has continued to affect local premises, with several premises being closed, transferred or changed as a result. However, a number of new licensed premises have opened with enquiries received about obtaining other licences within the town centre. Nationally, the Government has both introduced and proposed new legislation to amend the Licensing Act, which was also a feature of 2011.

2.0 **RECOMMENDATIONS**

2.1 That the Licensing Committee notes the report and makes any recommendations it thinks appropriate

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Report approved by: Alan Gough, Head of Environmental 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 and approved by Parliament in the exercise of its functions.

3.3 There are now 299 premises (included qualifying clubs) licensed under the Act, an increase of 5 from the previous year. During 2012 we received eight applications for new premises licences, five fewer than 2013. Of those, one was for a circus on King George V Playing Fields; one was to replace an existing premises licence; and another replaced an off-licence whose previous licence had been revoked, further detail is shown in 3.6 below

3.4 Twenty--eight hearings were scheduled for licensing sub-committees during 2012, one more than the previous year. Eleven of those were cancelled (vacated), two less than in 2010 and one less than 2009.

Interested parties made representations concerning five applications, compared to eighteen the previous year. The police made representations about three applications (four fewer than in 2011). Councillors made representations on two applications. The Primary Care Trust made a representation for the first time in its new role as a responsible authority, but no other responsible authorities made representations. These all relate to representations that were not withdrawn.

	2008	2009	2010	2011	2012
Scheduled hearings	30	21	28	27	28
Vacated hearings	7	7	13	7	11

Nationally, on average 12 applications per local authority go to committee (based on 2010 statistics).

3.5 The table at appendix 1 sets out a comparison of hearings and appeals over the last few years. Officers again conducted several successful mediation meetings that resulted in representations being withdrawn without the need for hearings.

3.6 Eight new premises licences were applied for in 2012 (compared to eighteen in 2011, eleven in 2010 and 19 in 2009) in respect of:

<i>Alcohol on-sales and other licensable activities (1 application in 2011)</i>	Molly's*
<i>Alcohol off-sales (6 applications made in 2010, three</i>	D & D Newsagents Whippendale Food & Wine

refused)	Rani Superstores Great Poland Deli
<i>Restaurants</i> (10 applications made in 2011)	Nando's 101 The Harlequin
<i>Late-night refreshment only</i> (0 applications made in 2011)	None
<i>Regulated entertainment only</i> (0 applications made in 2011)	Great Russian Circus

* New application for previously licensed premises

3.7 Changes to licences

The table below sets out the amount of licence variations, transfers and variations of designated premises supervisors in 2007 - 2012. No objections to changes in designated premises supervisors or premises licence holders were lodged by the police.

	2007	2008	2009	2010	2011	2012
Licence variation	25	20	11	12	37	9
Licence transfer	26	27	26	25	28	23
Variation to designated premises supervisor	22	91	94	55	80	50
Interim authority notices	0	2	2	0	3	0

3.8 During 2012, only two premises licences were surrendered – Sam's (a take-away in The Parade), and an off-licence at 258 – 260 St Albans Road). This compares to eight in 2011 and to nine in 2010.

A number of fees for licences were written off due to the businesses no longer trading and it not being possible to trace the former traders. In those circumstances the licences are technically still valid as they have not been surrendered to the licensing authority. Powers now exist for licences to be suspended in the event of unpaid fees.

3.9 Minor Variations

A procedure to allow minor variations to be made to premises licences and club premises certificates was introduced in July 2009. This allows minor changes to be made to premises (such as the addition of live music, or minor structural alterations) without the need for the full lengthy and expensive variation process. The table below illustrates the number of applications:

	2009	2010	2011	2012
Minor variation applications received	5	13	19	30
Minor variation applications approved	3	12	19	29

3.10 Premises supervisors in community premises

For the fourth year, there have been no applications under the

arrangements to allow community premises to sell alcohol under the authority of a management committee rather than a designated premises supervisor.

3.11 Temporary Event Notices

The chart below indicates the number of temporary event notices received each year by the council. The police issued 14 objection notices in 2011 (against 17 in 2010) on the grounds that the TEN would be likely to undermine the crime prevention objective.

Year	Number of TENS Received
2005	81*
2006	177
2007	410
2008	207
2009	255
2010	338
2011	202
2012	207

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

3.12 The police made representations about 13 temporary event notices (compared to 14 in 2011 and 13 in 2010). Environmental Health exercised its new powers to object to TENS twice during 2012. Five sub-committees were convened to consider those (two less than during the previous year). Eight TENS were refused (against seven in 2011), four were withdrawn following police or Environmental Health objections (compared to one the previous year) and a number were not valid.

3.13 From October 2012, premises users have been able to give “late” temporary event notices, with only five rather than ten working days notice of the proposed event. This system has been used by a number of premises so far. A further power to include conditions from existing premises licences/club premises certificates on a temporary event notice following objections from the police or Environmental Health has not been needed.

3.14 Personal licences

As initially predicted in 2005, the number of personal licence applications has declined considerably, partly because many licence-holders under the previous legislation now hold personal licences, and partly due to the factors mentioned elsewhere in this report. 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

3.15 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 remains 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.

3.16 **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 from January 2011.

	Applications	Hearings not required	Applications where cumulative impact policy did not apply ¹	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 ²	0
2012	6	5	1	1

3.17 According to Government figures, as of 31 March 2010 there were over 129 cumulative impact areas in England and Wales, an increase of 5 since March 2009, although it is understood Watford's is the only one in Hertfordshire and one of only five in the East of England.

3.18 Interaction with other policies:

The Council's approach to licensing continues to fit in with a number of other relevant strategies:

- (a) the corporate plan 2012 - 2016;
- (b) the Watford community safety partnership's alcohol harm

¹ This is because either alcohol sales were not the principal activity or where the application was not intended to extend the hours beyond midnight.

² New exceptions set out in policy LP3 applied to applications from January 2011

reduction plan. Reducing alcohol-related crime is a current strategic priority for 2011 – 2014;

- (c) the Council's 24-hour economy strategy, agreed in 2009.
- (d) Hertfordshire County Council's Alcohol Strategy.

3.19 Compliance and Enforcement

The Council's licensing enforcement officers, Environmental Health officers, police (including Special Constables) and Trading Standards have continued to work proactively and reactively to ensure compliance with licensing legislation.

3.20 The licensing authority received 151 complaints from the public about all licensing activities during 2012 (up from 117 in 2011), of which just six concerned licensed premises compared to seventeen in 2011. This is partly due to the generally high standards of compliance amongst licence-holders and proactive enforcement by officers in co-operation with the police licensing team.

	2007	2008	2009	2010	2011	2012
Premises opening hours	3	4	1	4	1	1
Door supervisors	4	2	0	2	2	1
Noise from premises	11	11	5	8	5	1
Underage sales	1	4	3	0	2	1
Advertisements	1	0	2	0	0	1
Unlicensed activities/other	5	1	1	5	2	1
Public safety	*	0	0	1	3	0
Child protection	*	1	0	1	0	0
Crime and disorder	*	3	3	1	2	0

* Not separately recorded in 2007

3.21 Closure powers

Aside from reviews of premises licences and club premises certificates, the police and Council have various powers to deal with premises that are being operated noisily, in a disorderly manner, or in breach of licensing conditions. These were not used in 2009 or 2010. In 2011, both licensing authority officers and police licensing officers issued "closure notices" under section 19 of the Criminal Justice and Police Act 2001. In one case this was used where no appropriate designated premises supervisor was in place; the second was to prevent the sale of alcohol after the premises licence had been surrendered. These powers were not used during 2012. However, during 2012 the police did use their powers to immediately close one premises (Hot Stuff Balti House) on the grounds that they feared imminent public disorder would arise if the premises remained open at that time.

3.22 Test purchases

The Licensing Act 2003 allows the licensing authority to bring prosecutions for under-age sales and proxy sales (where adults buy alcohol for children under 18 from on- and off-licensed premises). Trading Standards have a duty to

conduct test-purchasing operations within off-licences and the police take the lead for test-purchasing within other licensed premises.

- 3.23 The table below sets out test purchase operations conducted by Trading Standards in the Borough:

	2007	2008	2009	2010	2011	2012
Number of operations	6	n/a	1	2	1	2
Number of premises tested	19	9	5	12	4	5
Number of failures, that is, sales made to under-age volunteer	1	3	0	0	0	1
Number of passes	18	6	5	12	4	4
Number of fixed penalty notices issued	0	2	0	0	0	1
Number of review applications made	1	0	0	0	0	0

- 3.24 Licensing Reviews

	2006	2007	2008	2009	2010	2011	2012
Number of review applications	4	1	0	0	3	0	3

- 3.25 Three premises licence reviews were initiated by the police in 2012 for Costcutter off-licence in Market Street; Hot Stuff Balti House in The Parade (following the issuing of an immediate closure notice); and Area nightclub. In each case additional conditions were imposed with the effect of restricting the licensable activities conducted on those premises. Each premises appealed to the magistrate's court. In the first case, the appeal was withdrawn; in the other two the court dismissed the appeals and upheld the licensing sub-committees' decisions.

It is worth noting at this point that a fourth appeal – against a refusal to vary a late-night refreshment licence in The Parade – was also dismissed in part.

- 3.26 Inspections and monitoring

The council has moved away from carrying out proactive risk-based premises inspections to reactive inspections where we either receive complaints or act on our own initiative.

- 3.27 Seventy-five premises were inspected in 2011. No formal inspections were conducted in 2012 due to this change of approach.

Year	2007	2008	2009	2010	2011
No of inspections	59	169	158	143	75

- 3.28 Gambling Act 2005

The Gambling Act imposes a duty on the licensing authority to issue permits for gaming machines in alcohol-licensed premises, and to regulate other low-stake gambling, eg poker. Premises have an automatic entitlement to two

gaming machines and may apply for a permit for more than two machines.

- 3.29 The number of *applications (including renewals) for permits* relating to alcohol-licensed premises are set out below. This does not reflect the number of *premises* that have gaming machines however, as many premises are still reliant on authorisations granted by the magistrates' court under the Gaming Act 1968.

	2005	2007	2008	2009	2010	2011	2012
Automatic entitlement	0	0	8	10	12	5	3
More than two machines	1	4	6	5	11	6	4

3.30 Drinking Banning Orders

Powers under the Violent Crime Reduction Act 2006 for the Council or police to apply for a drink banning order (dubbed "alcohol ASBOs") in the civil courts came into force in 2009. The Council is only aware of two that have been issued concerning Watford's licensed premises over the last twelve months.

3.31 **Alcohol and health information**

Hertfordshire's Joint Strategic Needs Assessment shows that Watford had the highest rate of alcohol related admissions per 100,000 population in 2009/10 and Stevenage the highest estimated binge drinking prevalence. (Watford also had the highest drug treatment rate at 5.2 per 1000 population aged 18-74 in 2009/10).

- 3.32 Hertfordshire's standardised rates of alcohol related admissions per 100,000 population tend to be lower than national and regional comparators. However Watford, Broxbourne, Hertsmere and Three Rivers had rates higher than Hertfordshire as a whole; and Watford's were higher than the East of England. A statistical neighbour of Hertfordshire, Cambridgeshire, however, has a rate as high as England's over the three-year period.

- 3.33 Appendix 2 shows relevant alcohol-related statistics that have been obtained from the Local Alcohol Profiles on the North West Public Health Observatory (www.nwph.net). The information covers the year to 16 August 2012.

- 3.34 The Local Alcohol Profiles show that alcohol-related recorded crime, and alcohol-related violent crime, are both significantly worse than the England average.

- 3.35 Watford is significantly better than the English average in a number of areas:

- (a) alcohol-specific hospital admissions for under 18s (no change from the previous year)
- (b) alcohol-specific hospital admissions for males and females over 18 (no change from the previous year, although those for women are at the regional average)

- (c) alcohol-attribute hospital admissions for males (and no significant difference for females) (no change from the previous year, although both are the same as the regional average)
 - (d) number of employees in bars as a percentage of all employees although there is no comment in the LAPE on whether a better or worse figure is more desirable.
- 3.36 There is no significant difference between the rates of binge drinking in Watford compared to the England average. However, the percentage of higher-risk drinking (20 – 50 units per week for men over 16 and 15 – 35 units per week for women over 16) is higher than the average for England, albeit not significantly so.
- 3.37 **Licensing initiatives**
The licensing team has continued to work on and develop a number of initiatives involving licensed premises and licensable activities:
- 3.38 Pubwatch
Officers have continued to work with pubs and clubs through the three Pubwatch schemes. Apart from the town centre scheme in latter months, attendance at meetings by venue managers has been patchy.
- 3.39 Monthly door supervisor meetings have continued throughout the year, attended by council and police officers.
- 3.40 Taxi marshalling
During the 2010 - 2011 financial year, the County Council funded 55% of the scheme for Friday and Saturday, with WBC securing funding from licensed premises for the remainder and for Monday evenings, and this continued during 2011 - 2012. In November 2011 the scheme was extended to provide two further marshals in Sainsbury's car park. Work started in December 2011 with Hertfordshire County Council to implement a permanent traffic regulation order in Albert Road South to facilitate a permanent taxi marshalling area, and this has been held up due to legal issues.
- 3.41 Three Strikes Scheme
Earlier this year the Community Safety Partnership agreed to end the Three Strikes Scheme which had been introduced several years earlier. The Three Strikes scheme provided a three-staged warning system to people arrested, charged or convicted of alcohol-related offences relating to the night-time economy, including a three-month Pubwatch ban. As licensed premises were finding it difficult to enforce the bans and other developments such as Purple Flag it was decided to end this initiative.
- 3.42 Safer Watford Partnership
During 2012, officers have helped to deliver the Council's alcohol harm reduction strategy by participating in the work of the Safer Watford's alcohol harm reduction plan, and in the work of the Anti-Social Behaviour Action

Group.

3.43 Purple Flag

The Committee will be aware that in September 2012 the town was formally awarded Purple Flag status by the Association of Town Centre Management in recognition of its stewardship of the night-time economy. A working group has since been established to implement the recommendations of the independent Purple Flag assessors in time for the next “light-touch” assessment in a few months’ time and to take forward management of the town centre generally.

3.44 Key recommendations made by the Purple Flag assessors were that:

- (a) more could be done to highlight what was actually happening in terms of the various initiatives in place to ensure visitors enjoy a safe night out;
- (b) there was concern about the apparent lack of partnership with businesses relating to the NTE and their input into the strategic elements of NTE management;
- (c) more work should be done to make the Palace Theatre and Coliseum into attractive night-time spaces for wider audiences, as both bars were completely empty after 10pm when the assessors visited and they could be turned into venues for older audiences and families;
- (d) there is a very narrow selection of eating and drinking venues in the Purple Flag area and there could be a strategy for encouraging a wider variety of venues and also that cater for wider age groups and tastes. It is envisaged that the next full Purple Flag application will include the new Met Quarter development, which has a variety of restaurants, and it is understood there are several enquiries about converting existing or empty units throughout the town centre into eating establishments.

3.45 Other initiatives

Other initiatives over the past twelve months have included:

- (a) Operations Carbine, Chansom and Advisory by the police, which have addressed various safety and crime aspects in the night-time economy
- (b) high-level policy discussions between Members, the police and officers about early morning restriction orders and a late night levy and the formation of an NTE strategy group
- (c) Members attended a licensing master-class on early morning restriction orders and late night levies
- (d) a successful night-time economy summit in November attended by the vast majority of town centre pubs and clubs
- (e) the implementation of the licensing team’s business process review, resulting in savings of £42,000. Although this has had little direct impact

on the Licensing Act due to most of the functions being subject to a strict legislative regime, it will mean greater resilience within the team generally

- (f) the police have reviewed some of the pool of model licensing conditions to make them more appropriate for town centre premises.

3.46 Safety Advisory Group

Officers continue to play a role in the non-statutory multi-agency Safety Advisory Group advising on safety and licensing. This included advice on the Imagine Watford and Cassiobury Fireworks events, and during 2013 also includes the Hertfordshire Pride and Inland Waterways Festival in Cassiobury Park as well as numerous smaller events.

3.47 **National changes**

The Live Music Act 2012 and the Police Reform and Social Responsibility Act 2011 both introduced new measures during the year, which have been outlined to Members elsewhere.

3.48 The Government is currently consulting on several more changes, including:

- (a) introducing a minimum unit price for alcohol
- (b) introducing a ban on multi-buy promotions in the off-trade
- (c) reviewing the mandatory licensing conditions
- (d) introducing “health” as a fifth licensing objective
- (e) exempting “ancillary” alcohol sales at premises such as hairdressers, bed-and-breakfast premises etc from the need for a premises licence in lieu of an “ancillary sales notice”
- (f) modifying the temporary event notice scheme so that licensing authorities can establish their own separate scheme to be used by local community groups
- (g) extending the limit of 12 temporary event notices that can be given a year per premises to 15 or 18
- (h) allowing licensing authorities to exempt late night refreshment premises (either by type of premises or by geographical area) from needing a licence
- (i) extending the type of late night refreshment that currently does not licensing (such as that providing in hospitals or workplaces) and including motorway service areas in that definition
- (j) removing or simplifying the need for personal licence holders to renew their licences every 10 years (with a substantial amount due to be renewed in 2015)

- (k) remove the need for licence applications to be advertised in newspapers.

3.49 Finally, the Government has announced its intention to legislate during 2013 to remove some existing licensing restrictions as set out in the tables below:

Plays *Deregulated between 0800-2300 for audiences up to 500*

Performance of Dance *Deregulated between 0800-2300 for audiences up to 500*

Indoor Sport *Deregulated between 0800-2300 for audiences up to 1000*

*Live Music ** *Licensing suspended for amplified live music between 0800-2300 in on-licensed premises and deregulated in workplaces for audiences up to 500 (raised from 200 in Live Music Act 2012)*

Recorded Music *Licensing suspended between 0800-2300 in on-licensed premises (but not in workplaces) for audiences up to 500*

Film *Consultation on partial deregulation for community film exhibition*

Boxing / Wrestling *Licensing requirement retained with the exception of deregulation for Olympic style Greco-Roman and Freestyle wrestling*

Mixed Martial Arts/Cagefighting style to be licensed in future

Activities hosted by local authorities, hospitals, nurseries and schools (except Higher Education establishments) on own premises

Exempt from all Schedule 1 licensing requirements between 0800-2300 with no audience limitations

Activities held on local authority, hospital, nursery and school premises (except Higher Education establishments) by others with their permission

Exempt from regulation for live and recorded music between 0800-2300 for audiences up to 500

Community premises (e.g.: church and village halls, community centres, etc)

Exempt from regulation for live and recorded music between 0800-2300 for audiences up to 500

Circuses

Exempt from regulation for live and recorded music, plays, dance and indoor sport (ie: not boxing/wrestling or film) between 0800-2300 with no audience limitations

3.50 **Future Plans**

Over the next year the licensing team will be contributing to the Purple Flag and strategic NTE group's plans, as well as contributing to the Community Safety Partnership's priorities (to be confirmed in the coming weeks) that are expected to include:

- (a) creation of an NTE plan to reduce alcohol, violent crime, theft from the person (predominately mobile phones) and criminal damage
- (b) develop a strategy for the use of polycarbonate glasses within premises
- (c) reviewing the licensing policy
- (d) working with hotels on anti-social behaviour and alcohol management
- (e) reviewing anti-social behaviour and alcohol hot-spots
- (f) tackling staff selling alcohol to people already drunk through education and enforcement
- (g) implementing a town centre-wide electronic identification screening system in pubs
- (h) preparing for the next "light-touch" Purple Flag inspection
- (i) assisting the town centre Pubwatch's aims to:
 - reduce night-time crime and disorder in C1A beat
 - reduce phone theft in the NTE
 - create a more interactive Pubwatch
 - implement a Pubwatch banning sub-committee
 - introduce a Purple Flag sub-committee and
 - introduce a Best Bar None scheme.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 The Head of Strategic Finance comments that there are no financial implications arising from this report.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Legal and Property Services comments that there are no legal implications arising from this report.

Appendices

Appendix 1 – Licensing hearings and appeals

Appendix 2 – Local Alcohol Profiles for Hertfordshire

Background Papers

Local Alcohol Profiles for England

File Reference

None