

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 18 March 2014
Report of: Head of Community and Customer Services
Title: Licensing Act 2003 Annual Report for 2013

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 seventh annual report on the operation of the Act in line with a commitment made in the Council's statement of licensing policy.
- 1.2 A notable feature of the past twelve months has been an increase in the number of small business openings, particularly off-licences. This appears to be a sign of growing confidence in the local economy as a place for new enterprises to invest.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing Committee notes the report.

Contact Officer:

For further information on this report please contact: Jeffrey Leib (Licensing Manager) on telephone extension: 8429, email: jeffrey.leib@watford.gov.uk.

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 and approved by Parliament in the exercise of its functions.

3.3 There are now 326 premises (included 19 qualifying clubs) licensed under the Act, an increase of six from the previous year. During 2013 we received 20 applications for new premises licences, twelve more than in 2012. Two club premises certificates (for the Watford Irish Club and the Watford Trade Unionist and Labour Club) have been withdrawn as the clubs have been dissolved.

3.4 Last year there were 26 hearings scheduled, of which seven were withdrawn (vacated) amounting to 27% of hearings, compared to 39% the previous year. The sub-committee also additionally met once to consider an application for the renewal of a sexual entertainment venue licence, which was refused. The sub-committees sat 33 times during 2012, and 27 times during 2011.

	2008	2009	2010	2011	2012	2013
Scheduled hearings	30	21	28	27	33	26
Vacated hearings	7	7	13	7	11	7

3.5 Interested parties made representations concerning seven applications, - an increase of two from 2012 – and compared to 18 during 2011. The police made representations about six applications (compared to three and seven in the previous two years). Councillors made representations about three applications (one more than during 2012). The Primary Care Trust made a representation in its new role as a responsible authority and the licensing authority made two representations, both of which were withdrawn.

3.6 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.

3.7 Twenty new premises licences were applied for in 2013 (compared to eight in 2012, eighteen in 2011 and twelve in 2010) in respect of:

<i>Alcohol on-sales and other licensable activities (one application granted in 2012)</i>	Herts Pride ¹ The Flamingo Inland Waterways Enterprises Ltd ² Oxhey Village Club
<i>Alcohol off-sales (four applications granted in 2012)</i>	B & M Stores D & S Food & Wine (Market Street) Tesco Express D & S Food & Wine (Vicarage Rd) Hungarian Stores KB Foods Mala Polska ³ Rosanna's Florist Morrisons SL Food City
<i>Restaurants (two applications granted in 2012)</i>	JRC Global Buffet Melo Café Ed's Easy Diner Tortilla Banana Tree Giraffe
<i>Late-night refreshment only (0 applications made in 2012)</i>	none
<i>Regulated entertainment only (one application made in 2012)</i>	none

3.8

Changes to licences

The table below sets out the amount of licence variations, transfers and variations of designated premises supervisors in 2007 - 2013. Two objections were lodged by the police, to a change in designated premises supervisor and a premises licence holder. Although the application and objection were withdrawn the rarity of their objections was in line with the requirement that such objections are only made exceptionally.

	2007	2008	2009	2010	2011	2012	2013
Licence variation	25	20	11	12	37	9	8
Licence transfer	26	27	26	25	28	23	24
Variation to designated premises supervisor	22	91	94	55	80	50	78
Interim authority notices	0	2	2	0	3	0	0

3.9

The following eight premises licences were surrendered in 2013:

¹ Time-limited licence

² Time-limited licence

³ Applied in December 2013 and granted January 2014

Leavesden Road Mini-Market, Leavesden Road
 Convenio Retails Ltd, High Street
 Great Russian Circus, Radlett Road
 Bedford Arms, Nascot Road
 Tazeen Buffet Lounge, St Albans Road
 Unit 101 Intu Watford
 Secret Garden Flowers, Market Street
 Whippendale Food & Wine, Whippendell Road

The table below shows the number of surrendered licences:

2006	2007	2008	2009	2010	2011	2012	2013
3*	4*	3*	9	8	5*	6*	8

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

3.10 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.

3.11 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	2013
Minor variation applications received	5	13	19	30	29
Minor variation applications approved	3	12	19	29	26

3.12 Six of the minor variations were suggested by the police and/or licensing authority to be submitted to ensure the premises remained compliant with the Act.

3.13 Premises supervisors in community premises

For the fifth 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.

3.14 Temporary Event Notices

The chart below indicates the number of temporary event notices received each year by the council, only two of which were for alcohol sales alone. 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
2013	281

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

3.15 Most TENs were used for premises which have previously had TENs; only 93 of the total were for new premises. Twelve TENs were invalid for reasons such as being given for premises outside of the Borough or insufficient notice being given. Twelve were withdrawn following objections from the police or Environmental Health.

3.16 The police made representations about 10 temporary event notices (compared to 13 in 2012 and 14 in 2011). Environmental Health exercised powers to object to TENs six times during 2013. Two sub-committees were convened to consider those (three less than during the previous year). Two TENs were refused (against two in 2012 and seven in 2011), on Environmental Health objections (compared to one the previous year) and about eleven notices were not valid (although there were more where the proposed premises user was given the opportunity of correcting an otherwise invalid notice).

3.17 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
2013	85

3.18 Last year saw the third highest number of personal licences issued (with five

additional applications rejected as being invalid).

3.19 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.

3.20 **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.

3.21

	Applications	Hearings not required	Applications where cumulative impact policy did not apply ⁴	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 ⁵	0
2012	6	5	1	1
2013	4	3	3	0

3.22 According to Government figures, as of 31 March 2010 (the latest available) 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.

3.23 **Sensitive Licensing Areas**

A new feature in the current policy are the three Sensitive Licensing Areas, introduced to recognise community concerns about particular pockets of licensed premises. Since the policy was introduced in November 2013 the licensing authority has received three applications within the SLA areas. Representations were made about all three applications by the licensing authority and by the police; only one of the applications received representations from a total of three residents.

3.24 That latter application – for Melo Café in Whippendell Road - has been the only one that has needed referral to a sub-committee. The application was granted but representations by the licensing authority removed off-sales and alcohol sales

⁴ This is because either alcohol sales were not the principal activity or where the application was not intended to extend the hours beyond midnight.

⁵ New exceptions set out in policy LP3 applied to applications from January 2011

at its external seating areas from the licence.

3.25 **Compliance and Enforcement**

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

3.26 The licensing authority received 98 complaints from the public about all licensing activities during 2013 (down from 151 in 2012 and 117 in 2011). Only 9 of these related to licenses and activities regulated by the Licensing Act 2003. We received multiple and quite complex complaints associated with the Met Quarter however and so there may be an element of under-reporting in this year's statistic

	2007	2008	2009	2010	2011	2012	2013
Premises opening hours	3	4	1	4	1	1	0
Door supervisors	4	2	0	2	2	1	2
Noise from premises	11	11	5	8	5	1	4
Underage sales	1	4	3	0	2	1	2
Advertisements	1	0	2	0	0	1	1
Unlicensed activities/other	5	1	1	5	2	1	0
Public safety	*	0	0	1	3	0	0
Child protection	*	1	0	1	0	0	0
Crime and disorder	*	3	3	1	2	0	0

* Not separately recorded in 2007

3.27 Closure powers

The police, licensing authority and Environmental Health have various powers to close licensed premises where there is a breach of a licence condition; to prevent imminent or serious disorder; or to prevent public nuisance. The table below illustrates the number of occasions those powers have been used:

2006	0	2010	0
2007	0	2011	2
2008	0	2012	1
2009	0	2013	1

3.28 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.

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

	2007	2008	2009	2010	2011	2012	2013
Number of operations	6	n/a	1	2	1	2	3
Number of premises tested	19	9	5	12	4	5	7

Number of failures, that is, sales made to under-age volunteer	1	3	0	0	0	1	0
Number of passes	18	6	5	12	4	4	7
Number of fixed penalty notices issued	0	2	0	0	0	1	0
Number of review applications made	1	0	0	0	0	0	0

3.30 The Borough average failure rate of 0% compares to the County failure rate of 7.5%.

3.31 Licensing Reviews

	2006	2007	2008	2009	2010	2011	2012	2013
Number of review applications	4	1	0	0	3	0	3	4

3.32 Four review applications were submitted during 2013. Unusually two of those were for the same premises (the Red Lion public house) and one for a premises that had previously been reviewed (Whippendale Food and Wine, previously trading as DKSR). Each of those was initiated by the police whilst the fourth review, of KFC in St Albans Road, was brought by a councillor.

3.33 The first review of the Red Lion followed service of a closure notice on the grounds of imminent disorder by the police, and led to the imposition of further conditions on the licence. The second review followed concerns about breaches of conditions, and led to a six-week suspension of a licence and two additional conditions which were upheld on appeal by the magistrates' court in January 2014.

3.34 Whippendale Food and Wine had had a previous licence revoked following review, and a new premises licence application was then granted by a sub-committee. The second review in 2013 concerned further continued breaches of conditions and the premises licence was surrendered immediately before the review hearing.

3.35 KFC's licence was primarily reviewed on the grounds of nuisance arising from parking and litter. Following a hearing, six additional conditions were imposed relating to litter picking and noise from an air handling cabinet.

3.36 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.

3.37 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	2013
Automatic entitlement	0	0	8	10	12	5	3	4
More than two machines	1	4	6	5	11	6	4	0

- 3.38** The four notifications were in fact for existing premises where there had been a change in premises licence holder, and therefore new notifications were required without an overall increase in the number of gaming machines.
- 3.39** 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 during 2012, and only one in 2013. Drinking banning orders are expected to be replaced during late 2013 by orders under the Anti-Social Behaviour, Crime and Police Bill.
- 3.40** **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).
- 3.41** **Local Alcohol Profile**
The Local Alcohol Profiles compiled by Public Health England are expected to be published in March 2014. Up to date data will be provided to the Committee when this is available.
- 3.42** **Beer and pub statistics**
According to the British Beer and Pub Association⁶, Watford's 55 pubs employ 1568 people, with an additional 360 people indirectly employed. Most of those are under 25, with 335 over the age of 45. Just under half of all jobs are part-time. The annual wage bill totals around £20m whilst it is estimated the trade contributes around £1.1m in business rates and £0.9m towards corporation tax.
- 3.43** On a national level, the BBPA calculates that the beer and pub sector supports over 900,000 jobs, of which 46 per cent are held by 16 to 24 year olds. Beer and pubs contribute £22bn towards the UK's Gross Domestic Product and generates £12bn in total tax revenue. Between 2008 and 2013, beer tax increased by 42 per cent whilst beer sales declined by 21 per cent, 7000 pubs closed and 58,000 jobs were lost in the UK.
- 3.44** According to the Local Government Association, excessive alcohol consumption costs the NHS around £3.5bn a year. During 2010 – 11 there were 198,900

⁶ <http://www.beerandpub.com/news/new-figures-published-today-for-your-local-newspaper-s-area-show-vital-role-of-beer-and-pubs> published 07.02.14

alcohol-related hospital admissions (an increase of 40 per cent) than in the previous decade. Public Health are able to comment on licensing applications but the LGA is calling for the promotion of public health to be a fifth licensing objective.

3.45 Licensing and related initiatives

The licensing team has continued to support and develop various projects, including the successful Purple Flag re-accreditation. Officers assessed and judged a record 15 town centre pubs and bars that took part in our third Best Bar None competition. The winners were announced at a celebration evening organised by the town centre Pubwatch on 25 February. Oceana was named as the overall best premises and with the best door supervisor team.

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 included the Hertfordshire Pride and Inland Waterways Festival in Cassiobury Park as well as numerous smaller events.

3.47 National changes

Further deregulation in relation to the Licensing Act took place during 2013, with some licensable activities relating to music and entertainment no longer needing licences in some circumstances. Broadly speaking, theatre, indoor sporting events and dance performances between 8 am and 11 pm, and before fewer than 500 people, no longer needs a licence. The Government is presently consulting on whether film performances in “community premises” such as community halls should also be exempt along similar lines.

3.48 Next month legislation will come into force to implement the ban on below-cost alcohol sales. This will prevent alcohol from being sold below the cost of the relevant VAT and duty applicable to that product, which is relative to the volume of each individual drink sold and its strength (alcohol by volume). This change will be implemented by amending the Mandatory Conditions on each alcohol premises licence.

3.49 The Government is still considering on several more changes, including:

- (a) reviewing the mandatory licensing conditions
- (b) introducing “health” as a fifth licensing objective
- (c) 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”
- (d) extending the limit of 12 temporary event notices that can be given a year per premises to 15 or 18
- (e) allowing licensing authorities to exempt late night refreshment premises

(either by type of premises or by geographical area) from needing a licence

- (f) 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
- (g) abolishing the need for personal licence holders to renew their licences every 10 years (with a substantial amount due to be renewed in 2015)
- (h) remove the need for licence applications to be advertised in newspapers
- (i) allowing local authorities to set their own fees under the Licensing Act rather than relying on those set by central government. A consultation document was published by the government last month with comments invited by April 2014.

3.50 **Future Plans**

Over the next year the licensing team will be contributing to Watford's Big Events, 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) obtaining Purple Flag re-accreditation for the town centre;
- (b) reducing incidents of alcohol-related crime and ASB through reinforcing good behaviour;
- (c) obtaining ambulance service data to help identify hot-spot premises in the town centre;
- (d) promote best practise amongst bar staff to reduce incidences of alcohol being sold to customers who are already drunk; and
- (e) map existing provision of alcohol treatment services, alcohol misuse campaigns, alcohol enforcement resources etc to identify gaps for the 2015-2016 strategic assessment/budget

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 The Director of Finance comments there has been an increase in licence fees received during 2013/14 which will be reported through budget monitoring.

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 – Licensing hearings and appeals

Background Papers

File Reference

None