

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 12 January 2015
Report of: Head of Community and Customer Services
Title: Licensing Act 2003 Annual Report for 2014

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 eighth 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 restaurants and hotels being licensed during 2014. Furthermore, a small number of premises licences have been surrendered compared to previous years,

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 and

approved by Parliament in the exercise of its functions.

- 3.3 There are 320 licensed premises (including 15 qualifying clubs) licensed under the Act. This was reported as 326 in 2013 but after database cleaning is actually the same as 2014, 320. During 2014 we received fifteen applications for new premises licences (in 2013 we received twenty). There were no applications for new club premises certificates.
- 3.4 According to official statistics¹ as at 31 March 2014, there were 204,300 licensed premises - an additional 300 (0.1%) - nationally than the previous year, and 300 (2%) fewer club premises certificates.
- 3.5 Last year there were only 10 hearings scheduled, (the lowest number ever), one of which related to an application submitted in 2013, and of which only one was withdrawn (vacated).

	2008	2009	2010	2011	2012	2013	2014
Scheduled hearings	30	21	28	27	31	26	10
Vacated hearings	7	7	13	7	11	7	1

- 3.6 Interested parties made representations concerning nine applications, compared to seven in 2013 and five in 2012. The police made representations about one application (compared to six, three and seven in the previous three years). Councillors made representations about one application (three in 2013 and one during 2012). Environmental Health made two representations and the licensing authority made one representation (one less than in 2013); no representations were made by any other responsible authority.
- 3.7 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. This reduction in hearings and representations from Responsible Authorities 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.
- 3.8 Fifteen new premises licences were applied for in 2014 (compared to twenty in 2013, eight in 2012, 18 in 2011 and 12 in 2010) in respect of:

<i>Alcohol on-sales and other licensable activities (four application granted in 2013, two of which were time-limited)</i>	Holiday Inn Premier Inn
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¹ Alcohol and late night refreshment licensing England and Wales 31 March 2014 (<https://www.gov.uk/government/publications/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2014/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2014>)

<i>Alcohol off-sales</i> (ten applications granted in 2013)	Hungarian Store Zeynep Food Store Majestic Wines Goodwood Parade Post Office Holywell Convenience Store
<i>Restaurants</i> (six applications granted in 2013)	JoJos Melo Restaurant & Grill Gourmet Burger Kitchen Bill's
<i>Late-night refreshment only</i> (no applications made in 2013)	Woody's Grill
<i>Regulated entertainment only</i> (no applications made in 2013)	Jazz in the Park Fireworks 2014

3.9 Changes to licences

The table below sets out the amount of licence variations, transfers and variations of designated premises supervisors in 2007 - 2014. No objections were lodged by the police, to a change in designated premises supervisor and a premises licence holder (and there were exceptionally two in 2013).

	2007	2008	2009	2010	2011	2012	2013	2014
Licence variation	25	20	11	12	37	9	8	22
Licence transfer	26	27	26	25	28	23	24	23
Variation to designated premises supervisor	22	91	94	55	80	50	78	50
Interim authority notices	0	2	2	0	3	0	0	1

3.10 Three premises licences were surrendered in 2014:

Hungarian Stores Ltd (relocated to Greenhill Crescent from Clive Way)
Mecca Bingo, King Street
Kekha Shan Piri Piri, St Albans Road

3.11 The table below shows the number of surrendered licences:

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

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

3.12 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. Those licences become

suspended once the annual maintenance fees are unpaid. Two premises licences lapsed (Modello and Bread, Butter and Grill) due to dissolution of the corporate premises licence holders.

3.13 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	2014
Minor variation applications received	5	13	19	30	29	10
Minor variation applications approved	3	12	19	29	26	9

3.14 One minor variation was recommended by the police and/or licensing authority to be made to ensure the premises remained compliant with the Licensing Act, compared to six in 2013.

3.15 Premises supervisors in community premises

For the sixth 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.

3.16 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 one objection on the grounds that the TEN would be likely to undermine the crime prevention objective.

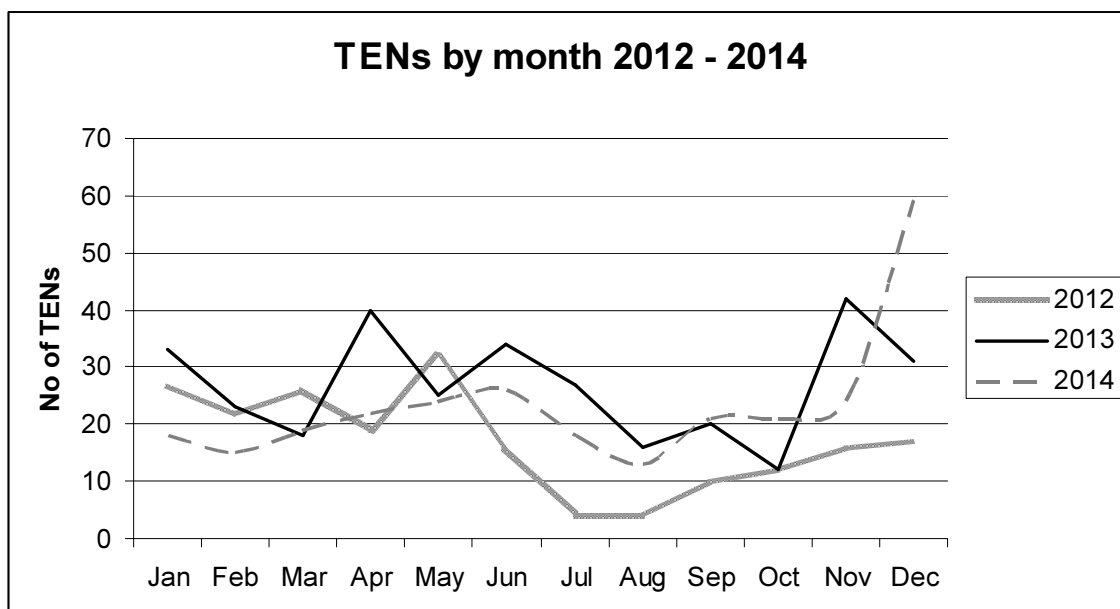
Year	Number of TENs Received
2005	88*
2006	188
2007	218
2008	237
2009	243
2010	251
2011	237
2012	206
2013	281
2014	325

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

3.17 TENs continue to be primarily given in respect of premises that are already licensed or for which TENs had previously been given. Nine premises benefited from TENs that had not done so in previous years, and thirty-four were given for premises that

do not also have a premises licence or club premises certificate. Nine of the notices were rejected as being invalid (compared to twelve in 2013) and twelve were withdrawn for various reasons such as police objections.

3.18 The table below illustrates the number of temporary event notices between 2010 and 2014



3.19 The police made representations against five temporary event notices (compared to 10 in 2013, 13 in 2012 and 14 in 2011). Environmental Health exercised their powers to object to TENs on two occasions, four fewer than during 2013. One sub-committee was convened to consider a TEN, which was refused. Six counter-notices were issued by the licensing authority, four of which related to “late” TENs and two to “standard” TENs. Only one counter-notice was issued on the grounds that the premises would have exceeded the permitted number of days’ use for the year.

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

3.21 The local picture is contrary to the national picture, which has seen a year-by year-increase and which saw around 25,000 new personal licences issued in 2014.

3.22 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. Based on the 99 per cent of local authorities which provided data to the Home Office statistical survey, in the year to 31 March 2014, only 257 personal licences were surrendered nationally, six were revoked, two were forfeited and fourteen were suspended by a court

3.23 **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.

3.24

	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
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

3.25 According to Government figures, as of 31 March 2014 (the latest available) there were 208 cumulative impact areas in England and Wales, an increase of 79 since March 101.

3.26 Sensitive Licensing Areas

The three Sensitive Licensing Areas were introduced in 2011 to recognise community concerns about particular pockets of licensed premises. One application was made in 2013 within the Whippendell Road SLA for previously-licensed premises, which was granted without a hearing. Officers made additional enquiries on behalf of the licensing authority about the proposed use of the external dining area and were satisfied its' use was unlikely to have a negative impact on the

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

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

prevention of nuisance objective.

3.27 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. 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. 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.

3.28 The licensing authority received 117 complaints from the public about all licensing activities during 2014 (compared to 98 in 2013, 151 in 2012 and 117 in 2011). Only eight of these related to activities regulated by the Licensing Act 2003. Although we continued to receive complaints about waste collection at the Met Quarter these were fewer than in 2013 culminated in the review application reported below.

	2007	2008	2009	2010	2011	2012	2013	2014
Premises opening hours	3	4	1	4	1	1	0	1
Door supervisors	4	2	0	2	2	1	2	1
Noise from premises	11	11	5	8	5	1	4	0
Underage sales	1	4	3	0	2	1	2	1
Advertisements	1	0	2	0	0	1	1	1
Unlicensed activities/other	5	1	1	5	2	1	0	1
Public safety	*	0	0	1	3	0	0	1
Child protection	*	1	0	1	0	0	0	1
Crime and disorder	*	3	3	1	2	0	0	1

* Not separately recorded in 2007

3.29 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
2014	0		

3.30 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.

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

	2007	2008	2009	2010	2011	2012	2013	2014
Number of operations	6	n/a	1	2	1	2	3	0
Number of premises tested	19	9	5	12	4	5	7	0
Number of failures, that is, sales made to under-age volunteer	1	3	0	0	0	1	0	N/A
Number of passes	18	6	5	12	4	4	7	N/A
Number of fixed penalty notices issued	0	2	0	0	0	1	0	0
Number of review applications made	1	0	0	0	0	0	0	0

3.32 The Borough average failure rate of 0% compares to the County failure rate of 20%, although this was from only five test purchases across Hertfordshire as a whole.. Test purchases are conducted on the basis of intelligence about under-age sales, and indicates a high level of awareness and compliance by off-licences.

3.33 Licensing Reviews

	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of review applications	4	1	0	0	3	0	3	4	1

3.34 Only one resident-led review was initiated during the year (about Jimmy's World Grill and Bar). Negotiations between residents, the premises concerned and officers meant that issues were resolved prior to the hearing.

3.35 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.

3.36 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	2014
Automatic	0	0	8	10	12	5	3	4	3

entitlement									
More than two machines	1	4	6	5	11	6	4	0	1

3.37 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.

3.38 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, and criminal courts were required to consider them following convictions for alcohol-related offences. They have been used very sparingly and have now been replaced by orders under the Anti-Social Behaviour, Crime and Policing Act 2014.

3.39 **Alcohol and health information**

According to the current Hertfordshire Joint Strategic Needs Assessment⁴, the estimated rates of higher risk drinking in most districts of Hertfordshire are greater than the national average.

3.40 In Hertfordshire more than one in five adults (22.9%) are estimated to be drinking alcohol in a way that will be detrimental to their health. This is recognised in the Hertfordshire Health and Wellbeing Strategy 2013 – 2016⁵ that prioritizes reducing harm caused by alcohol by implementing the following actions:

- working together to deliver effective interventions
- being consistent in giving and demonstrating responsible drinking messages – Making Every Contact Count
- improving the safety of town centres, working in partnership with districts, police, licensing authorities, communities and faith groups to target premises which are not complying with licensing regulations.

Further work to shape how this will be delivered is currently underway with Hertfordshire County Council.

3.41 **Licensing and related initiatives**

The licensing team has continued to support and develop various projects, including the successful Purple Flag re-accreditation. Following the third Best Bar None competition, officers have again worked with the town centre Pubwatch to launch a competition with voting via the Watford Observer website and the winners due to be announced in February 2015.

⁴ <http://atlas.hertslis.org/IAS/Custom/Resources/JSNASummaryPDF.pdf>

⁵ Health and Wellbeing Board Strategy 2013 – 2016 (<http://www.hertsdirect.org/docs/pdf/h/HWBS>)

3.42 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 Big Events programme and Cassiobury Park's events.

3.43 **National changes**

The Anti-Social Behaviour, Crime and Policing Act 2014 was implemented during 2014 which repeals a number of existing measures to control alcohol-related crime, such as designated public places orders ("drinking on the streets" bans), alcohol banning orders and powers to close noisy and disorderly premises. The Act introduces new measures such as community protection notices; public space protection orders; and premises closure orders which are designed to be more flexible and responsive to tackling those issues.

3.44 Legislation to implement the ban on below-cost alcohol sales was also implemented during 2014. This is designed to 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).

3.45 The Legislative Reform (Entertainment Deregulation) Order 2014 is due to come into force on 6 April 2015. This will, in general terms exempt the following activities between 8 am and 11 pm and where audiences are less than 500 people from needing a licence:

- the provision of entertainment by or on behalf of local authorities, health care providers or schools on their own defined premises⁶
- live music in relevant alcohol licensed premises and workplaces
- recorded music in relevant alcohol licensed premises (not workplaces)
- live and recorded music held by third parties in schools, hospitals, local authority and community premises with the occupier's permission
- travelling circuses (although the licensing authority's policy has been to generally exempt those anyway)
- Greco-Roman and freestyle wrestling⁷
- incidental films (where the film is incidental to another activity which is not a itself description of regulated entertainment, e.g. drinking or eating).

3.46 The Deregulation Bill currently before Parliament is expected to be in force by Spring 2015 and is expected to:

- introduce a "light-touch" Community and Ancillary Notice (similar to temporary event notices) to allow community groups and bed-and-breakfast providers to

⁶ NB: There will no limit on the size of the audience

⁷ Up to a maximum audience of 1000 people

sell alcohol without a full premises licence. (Community premises, as noted above, can already be exempt from the need to have a designated premises supervisor although none have done so in Watford)

- allow licensing authorities to use their discretion whether to exempt late night refreshment premises from needing premises licences
- extending the limit of 12 temporary event notices that can be given a year per premises to 15 or 18
- abolishing the need for personal licence holders to renew their licences every 10 years. There are some personal licence holders whose licences will however expire before the Deregulation Bill ends the need for their licences to be renewed in 2015. Regulations have been passed to allow for a “light-touch” renewal during the first part of 2015.

3.47 The Government is still considering several more changes, including:

- reviewing the mandatory licensing conditions
- introducing “health” as a fifth licensing objective
- remove the need for licence applications to be advertised in newspapers
- allowing local authorities to set their own fees under the Licensing Act rather than relying on those set by central government. This latter point may be affected by the decision of the Supreme Court in *Hemming and Others v Westminster City Council*, which is expected to be delivered during the spring of 2015. This case will rule on the extent that licensing fees can be used to pay for the cost of enforcement against unlicensed operators, or whether such costs must only come from general funds.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 There are no 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 – Licensing hearings and appeals

Background Papers

File Reference None